

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2018

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

W.P.No.26571 of 2018

and

W.M.P.Nos.30918,30924 and 30930 of 2018

G.Vezhavendan

... Petitioner

Versus

1. The Member Secretary,
Chennai Metropolitan Development Authority (C.M.D.A),
Thalamuthu Natarasan Maligai,
Egmore, Chennai 600 008.
2. The Kattankulathur Panchayat Union,
Nudungundram Village,
3. The Sub Registrar,
Tambaram.
4. Manoharan,
5. Gnani
6. Srinivasan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for the issue a Writ of Certiorari calling for the records of the first respondent in granting of approval P.P.D/L.O.No.23/2016, Vide Letter No.L1/6141/2015, dated 29.08.2016 and quash the same.

For Petitioner : Mr.S.Dharmakkan

For Respondents : Mr.P.S.Ganesh, Standing counsel for
R1 Mr.A.N.Thambidurai
Special Government Pleader for R2 & R3

O R D E R

This Writ Petition is filed seeking to quash the Proceedings of the first respondent dated 29.08.2016, granting approval of a layout.

2. The case of the petitioner is that the petitioner's father was the absolute owner of the property, namely, vacant site, measuring an extent of 3 ½ cents situated at Nedungundram Madura Alappakkam comprised in Survey No. 334/B. It is further stated that after the death of the petitioner's father, the petitioner and his brothers have inherited the said property.

3. It is also the case of the petitioner that one Mr. Varadhan, father of the respondents 4 to 6, is having lands adjacent to the petitioner's property and that the said Mr. Varadhan proposed to form a layout in respect of his properties comprised in Survey Nos. 335/1, 333/3, 332 and 333/2 at Nedungundram Madura Alappakkam Village. It is further stated that the layout formed by the father of the respondents 4 to 6 did not have approach road and therefore, he required an approach road for the proposed layout. It is the petitioner's case that the petitioner and other co-owners have agreed to execute a sale deed in respect of the land measuring an extent of 3 ½ cents in favour of Mr. Varadhan, specifically stating that the sale deed is for the purpose of forming the approach road from the plot.

4. The learned Counsel appearing for the petitioner pointed out from the sale deed, dated 05.09.1991 registered as Document No. 5225 of 1991 that there is specific reference to the approach road in turn with the agreement which was entered into between Mr. V. Varadhan and the petitioner and others. The sale deed, of course, refers to the fact that the purchaser has approached the vendors to sell the property measuring 3 ½ cents for the purpose of forming a public Road of 30 feet width for the layout. It is further stated that the layout was formed differently and the respondents four to six have shown the land purchased by their father as a place for construction of a shopping complex. The petitioner along with others have also filed a Civil Suit in O.S. No. 192 of 2009 on the file of the District Munsif, Chengalpat, against the respondents four to six and the said suit is pending. It is, in the meanwhile, the petitioner, after knowing that the respondents four to six have obtained approval for the layout, violating the terms of agreement and sale deed, has approached this Court to quash the proceedings whereby the Layout approval was granted to the respondents four to six on 29.08.2016. The petitioner has earlier sent a representation dated 13.02.2018 requesting the first respondent to cancel the Layout approval. Since no action was taken, it is stated that the above writ petition is filed.

5. To sum up, the grievance of the petitioner is only on the basis of the agreement dated 05.09.1991 and the following

registered sale deed dated 05.09.1991. The petitioner may have an enforceable agreement with the promoter of the layout. For the said purpose, he has approached the civil court for appropriate relief. On the basis of the Agreement and the Sale Deed, he cannot seek cancellation of the layout approval. The first respondent or the authority under the Tamil Nadu Town and Country Planning Act or other statutory authorities are not competent to decide the right title and interest of such individuals as well as the obligations and privileges of such individuals on the basis of the independent agreements or contracts. In that view of the matter, based on the representation of the petitioner, the planning permission that was granted earlier in favour of the promoters of layout cannot be cancelled. Hence, this writ petition is dismissed as devoid of merits. However, it is open to the petitioner to pursue his remedy in the civil court in the suit already filed for appropriate relief. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Deputy Registrar

//True copy//

Sub Assistant Registrar

tsi/rst

To

1. The Member Secretary,
Chennai Metropolitan Development Authority (C.M.D.A)
Thalamuthu Natarasan Maligai,
Egmore, Chennai 600 008.
2. The Kattankulathur Panchayat Union,
Nudungundram Village,
3. The Sub Registrar, Tambaram.

+1cc to Mr.S.Dharmakkan, Advocate SR.No.70967

+1cc to Mr.P.S.Ganesh, Advocate SR.No.70464

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GMV (23/10/2018)