

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. No.9722 of 2013

G.Sambandam

.. Petitioner

-vs-

1.The Municipal Commissioner,
Kancheepuram Municipality,
Kancheepuram.

2.The Chairman,
Kancheepuram Municipality,
Kancheepuram.

3.The Deputy Director of
Town and Country Planning,
Chengalpattu,
Kancheepuram,
Kancheepuram District.

4.The Secretary,
The Kanchipuram Co-operative
Housing Society Ltd., No.G1729,
No.12-A, Sappani Pillaiyar Koil Street,
Kancheepuram Town,
Kancheepuram District.

.. Respondents

Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus directing the respondents to consider the petitioner's representation dated 02.12.2012 and thereby direct the respondents to convert the community hall lands in Survey Nos.238/3A, 238/3C and 238/2, Periyathottam, Kancheepuram District into housing plots and consequently direct the third respondent to approve the plan submitted by the second respondent in his letter in Na.Ka.No.13933/85/F1 dated 27.07.1985 immediately.

For Petitioner

:: Mr.B.Gopalakrishnan for
Ms.P.A.Chithramani

For Respondents :: Mr.E.M.S.Natarajan for R1
 No appearance for R2
 Mr.V.Shanmuga Sundar,
 Special Government Pleader
 for R3
 Mrs.T.P.Savitha for R4

ORDER

The writ petition has been filed seeking a direction to the respondents to consider the petitioner's representation dated 02.12.2012 and to convert the community hall lands in Survey Nos.238/3A, 238/3C and 238/2 situated at Periyathottam, Kancheepuram District into housing plots and to direct the third respondent to approve the plan submitted by the second respondent in his letter in Na.Ka.No.13933/85/F1 dated 27.07.1985 immediately.

2.Learned counsel appearing for the petitioner would submit that the petitioner, while serving as Ex.Secretary, Kancheepuam Co-operative Housing Society Ltd. and Ex.Vice Chairman of Kancheepuram Municipality, discharged his public duties with care and caution. Since there was a proposal placed in the second respondent municipality on 25.07.1985 to convert the landed property situated in Survey Nos.238/3A, 238/3C and 238/2 Periyathottam which comes under the jurisdiction of Kancheepuram Municipality into housing plots, due to the existence of large number of community halls and playgrounds in and around the Kancheepuram Municipality, the local planning committee of Kancheepuram Municipality conducted a meeting and unanimously came to the conclusion to convert the above said lands from playground and community halls to housing plots. The said Resolution No.3 dated 25.07.1985 was forwarded by the second respondent to the third respondent for seeking necessary permission vide proceedings dated 27.07.1985 requesting to convert the above said lands as housing plots. The third respondent by his letter dated 19.09.1985 pointed out certain defects in the said proposal and directed the second respondent to rectify the same. Pursuant thereto the second respondent by letter dated 21.01.1986 addressed to the Secretary Housing Society to rectify the said mistakes. After rectification, on 20.01.1986, the second respondent by Proceedings dated 27.07.1985 re-submitted the resolution to the third respondent for fresh consideration. Based upon the resolution passed by the second respondent, the fourth respondent plotted the said land and approved the layout on 28.08.1982 by naming the same as Dr.Arignar Anna Nagar, which comes under the Kancheepuram Municipality jurisdiction. After obtaining necessary permission

from the third respondent, the above said lands were converted into housing plots and the same were plotted out through the fourth respondent and thereby, the plots were sold to its purchaser in a proper manner as per the bye laws of the housing society. Thereafter, the purchasers of the said plots had applied for permission to construct the buildings and out of 199 allottees, 132 allottees were given building construction permission and they have also put up their superstructure in the same. Subsequently, out of 199 allottees, 57 allottees have put up the superstructure and they have also been provided with water connection by the second respondent. According to the learned counsel appearing for the petitioner, the said layout and plan, re-submitted by the second respondent to the third respondent by letter dated 27.07.1985 for approval, were not considered by the third respondent. In this regard, the petitioner made representation dated 02.12.2012 to the third respondent for taking necessary action. As the same has not been considered, the petitioner is before this Court with the above prayer.

3. Counter affidavit has been filed by the third respondent. Learned Special Government Pleader appearing for the third respondent submitted that till date no approval has been accorded for the revised layout proposal. In the meantime, the petitioner has converted reserved sites into house sites and sold them as house sites for his own benefit without any sanction from the Deputy Director of Town and Country Planning. When the layout approved by the Deputy Director of Town and Country Planning, Chengalpattu Region was reserved for shops, children playground, playground, park and community hall and the third respondent, till date, did not give any approval for the revised layout, the request of the petitioner cannot be considered.

4. This Court fully agrees with the submission made by the learned Special Government Pleader appearing for the third respondent. It is seen from the records that the original Resolution No.3 dated 25.07.1985 was passed by the second respondent seeking necessary permission through Proceedings dated 27.07.1985 requesting the third respondent to convert the land in S.Nos.238/3A, 238/3C and 238/2, Periyathottam as housing plots and the third respondent by letter dated 19.09.1985 pointing out certain defects in the said proposal, directed the second respondent to rectify the same. After rectification, the second respondent again re-submitted the same to the third respondent for fresh consideration. In the meanwhile, the plots have been sold out and the purchasers have put up the construction. As the plots have been constructed without

obtaining any planning permission violating the law, this Court is not inclined to entertain the writ petition and therefore, the same is dismissed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Municipal Commissioner,
Kancheepuram Municipality,
Kancheepuram.

2.The Chairman,
Kancheepuram Municipality,
Kancheepuram.

3.The Deputy Director of
Town and Country Planning,
Chengalpattu,
Kancheepuram,
Kancheepuram District.

+1 cc to M/s.Sundara Pandian,Advocate Sr.No. 87281

+1 cc to The Government Pleader Sr.No. 87400

AKM/03.12.19/4P-6C /

W.P. No.9722 of 2013

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