

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2019

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.27202 of 2018 and W.P.No.2492 of 2019

Tmt.A.Kowsalya

... Petitioner

(in both writ petitions)

Vs.

- 1.State of Tamil Nadu rep. by its
Principal Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai - 600 009.
- 2.The Director of Town and Country Planning,
Government of Tamil Nadu,
Opposite to LIC, Chengalvarayan Building,
4th Floor, No.807, Anna Salai,
Chennai - 600 002.
- 3.The Commissioner of Municipal Administration,
Chepauk, Chennai - 600 005.
- 4.The Regional Director of Municipal Administration,
Chengalpet Region,
No.1, Rajaji Road, West Tambaram,
Tambaram, Chennai - 600 045.
- 5.The Commissioner,
Thiruvallur Municipality,
Thiruvallur.
- 6.The Assistant Director of Town and country planning,
Thiruvallur Region,
No.43/397A, 2nd Floor, Annai Indra Gandhi Road,
Rajajipuram, Part - II,
Thiruvallur - 600 001.

... Respondents

(in both writ petitions)

PRAYER in W.P.No.27202 of 2018 : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records relating to the order of rejection passed in proceedings in Na.Ka.No.1067/2017/

Thi.Va.Ma.2 dt:02.08.2018 on the file of the 6th respondent quash the same and direct the respondents to grant technical sanction after deleting the proposed A3 100 feet road for the formation of the layout of the petitioner in S.No.436/1, 2 of Thiruvallur Village, Thiruvallur Municipality.

PRAYER IN W.P.NO.2492 OF 2019: Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus, directing the respondents to pass orders on the representation of the petitioner dated 12.11.2018 by directing the respondents to grant technical sanction after deleting the proposed A3 100 Feet road for the formation of layout of the petitioner in S.No.436/1, 2 of Thiruvallur Village, Thiruvallur Municipality.

For Petitioner : Mr.S.Duraisamy

For Respondents: Mr.D.Raja
Additional Government Pleader

C O M M O N O R D E R

Writ Petition in W.P.No.27292 of 2012 has been filed challenging the order passed by the 6th respondent refusing to delete the proposed 100 feet road from Master Plan of Thiruvallur Town, which is runs across the petitioner's land.

Writ Petition in W.P.No.2492 of 2019 has been filed seeking a direction to the respondents to consider the representation of the petitioner dated 12.11.2018.

2.According to the petitioner, she is the owner of the property in Survey No.436/1, 436/2, to an extend of 1.78 and 0.01 acres, situated in No.42, Thiruvallur Village, Thiruvallur Taluk. The above said land is a agricultural land and the petitioner decided to form a lay out as house sites. After forming the layout, he had filed an application seeking for lay out approval before the 5th respondent and the said application was forwarded to the 6th respondent. But the said application has been rejected by the 6th respondent on the ground that as per the revised approved master plan for Thiruvallur Town was issued by the Government by order dated 13.11.2007, a 100 feet road run across the petitioner's land. Hence, layout approval cannot be granted. Thereafter, the petitioner submitted an application before the 5th respondent on 01.03.2018 seeking to delete the 100 feet road from the Master Plan. But, the said application was rejected by the 5th respondent and issued impunged order. Now, challenging the said impunged order, the present writ petition is filed.

3.The 6th respondent filed the detailed counter stating that approving a master plan is in exclusive jurisdiction of the State Government, and the 6th respondent do not have any power to delete road in the approved master plan. If the petitioner submit his application for deletion of the 100 feet road in the lay out, the 6th respondent is ready to forward the same to the Government for consideration.

4.Based on the above said counter affidavit, the petitioner submitted an application before the 6th respondent on 12.11.2018 for deleting the proposed 100 feet road from the Master Plan. But, the said application was not forwarded by the 6th respondent to the first respondent. Hence, the petitioner filed the Writ Petition in W.P.No.2492 of 2019 seeking a direction to the respondents to consider the said application.

5.Mr.S.Dorisamy, the learned counsel appearing for the petitioner submitted that as per the counter affidavit filed by the 6th respondent, now the petitioner filed the application before the 6th respondent seeking for deletion of the proposed 100 feet road from the Master plan. But, so far the application has not forwarded to the Government till date and hence direction may be issued to the 6th respondent to forward the application to the first respondent government for consideration to removal of the proposed 100 feet road.

6.Mr.D.Raja, the learned Special Government Pleader, appearing for the respondents, on instructions, submitted that the application pending with the 6th respondent, it will be forwarded to the first respondent/State Government.

7.Considering the limited prayer sought for in the writ petition, the 6th respondent is directed to forward the application filed by the petitioner dated 12.11.2018 to the first respondent, for deletion of proposed 100 feet road from the approved master plan in the Thiruvallur Town, within a period of two weeks from the date of receipt of a copy of this order. After receipt of the said application, the first respondent is direct to consider the same and pass suitable orders on merits and in accordance with law within a period of six weeks thereafter.

8.With the above directions, both Writ Petitions are disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

rrg

Sub Assistant Registrar

To

- 1.Principal Secretary to Government,
State of Tamil Nadu
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Thiruvallur - 600 001.
- +2 ccs to Mr.S.Doraisamy, Advocate, S.R.No.7331, 7332
- +1 cc to the Government Pleader, S.R.No.7548

W.P.Nos.27202 of 2018 and
W.P.No.2492 of 2019

MM(CO)
SSM(19/02/2019)

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