



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.07.2019

CORAM:

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

REV.APLC.(MD)No.63 of 2019 in
W.P.(MD)No.2467 of 2018 and
CONT.P.(MD)No.704 of 2019

REV.APLC.(MD)No.63 of 2019

The Executive Officer,
Naranammalpuram Special Grade Town Panchayat,
Naranammalpuram,
Tirunelveli District. .. Petitioner/Respondent

Vs.

1. G.Vijaya Sankari .. 1st Respondent/Petitioner
2. Dhayasankar .. Respondent/Respondent

Prayer : This Review petition is filed under Order 47 Rule 1 & 2 r/w Section 114 of C.P.C., to review the order passed in W.P. (MD)No.2467 of 2018, dated 29.03.2019.

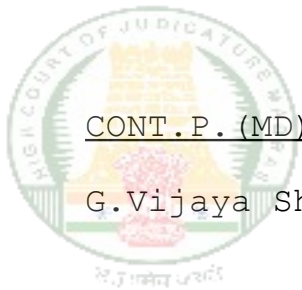
Prayer in WP(MD). 2467/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the respondent in his proceedings Na.Ka.No.406/2017 dated 14.12.2017 and quash the same as illegal and consequently directing the respondent to issue the building approval to the petitioner for construction of building at Plot No.121, Survey No.348/1, Naranammalpuram Village, Tirunelveli Taluk and District within a time frame fixed by this Hon'ble Court.

For Petitioner : Mr.Aayiram K.Selvakumar

For R-1 : Mr.B.Saravanan

For R-2 : Mr.N.Dilipkumar



CONT.P.(MD)No.704 of 2019

G.Vijaya Shankari

.. Petitioner/Petitioner

Vs.

J.Devaraj,
The Executive Officer,
Naranammalpuram Special
Grade Town Panchayat,
Naranammalpuram,
Tirunelveli District.

.. Contemnor/ Respondent

Prayer : This Contempt petition is filed under Section 11 of the Contempt of Courts Act, to punish the respondent for deliberate and willful disobedience of the order passed by this Court in W.P. (MD)No.2467 of 2018, dated 29.03.2019.

Prayer in WP(MD). 2467/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the respondent in his proceedings Na.Ka.No.406/2017 dated 14.12.2017 and quash the same as illegal and consequently directing the respondent to issue the building approval to the petitioner for construction of building at Plot No.121, Survey No.348/1, Naranammalpuram Village, Tirunelveli Taluk and District within a time frame fixed by this Hon'ble Court.

For Petitioner : Mr.B.Saravanan

For Respondent : Mr.Aayiram K.Selvakumar

C O M M O N O R D E R

The Writ petitioner had purchased a plot of land in a layout styled as Arunachalam Meadows. It was promoted by one Dhayasankar. The Writ petitioner wanted to put up a building on the plot of land purchased by her. The local body denied permission. Hence, she filed W.P.(MD)No.2467 of 2018. This Court quashed the order passed by the local body and directed them to grant building plan approval in favour of the Writ petitioner. This order was passed on 29.03.2019.

2. Contending that the order passed by this Court has not been complied with, this Contempt petition came to be filed. At that stage, the local body filed Review Application(MD)No.63 of 2019.



3. Heard the learned Standing counsel appearing for the local body and the learned counsel appearing for the purchaser and the learned counsel appearing for the promoter.

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4. It is not in dispute that the promoter Thiru.Dhayasankar applied to the Director of Town and Country Planning and obtained approval as early as on 28.02.2011. It is again not in dispute that the local body namely, Naranammalpuram Special Grade Town Panchayat issued consequential proceedings on 22.06.2011. The case of the local body is that thereafter the resolution was passed on 07.12.2011, cancelling the approval given on 22.06.2011. Based on the resolution passed by the council, show cause notice was issued to the promoter on 16.04.2012. But then, no final orders were passed. Even though the resolution was passed by the local body proposing to cancel their approval proceedings and show cause notice also came to be issued, no final orders were passed. It was at this stage, the Writ petitioner Vijaya Sankari purchased the plot of land in the said lay out. A mere passing of the resolution is not sufficient. Consequential proceedings will have to be issued. In as much as the consequential proceedings were not issued, this Court was right in giving the finding that when the Writ petitioner purchased a plot of land, the lay out continued to remain as an approved layout. Once a person purchased a plot of land, he is certainly entitled to put up a construction thereon. Therefore, I do not want to review the order passed by me earlier. At the same time, I cannot shut my eyes to certain ground realities.

5. The learned Standing counsel appearing for the Town Panchayat pointed out that the approval issued in favour of the promoter on 22.06.2011 was not an unconditional one. It was subject to a number of conditions. In G.O.Ms.No.130 Housing and Urban Development (UD 4-1) Department, dated 14.06.2010, it was laid down that the promoter will have to bear the cost of laying improvements to system in respect of road, water supply, sewerage, drainage and electricity supply.

6. In this case, the apprehension of the Town Panchayat is that if the order under challenge is not reviewed, similar requests will be made by other purchasers. The land comprises as many as 347 plots. If all the 347 plots are sold, the houses will come up there on. The local body will have to discharge the statutory obligation of laying road, providing water supply, forming sewerage and drainage lanes and also providing electricity supply. The cost of providing such amenities will come to at least Rs.2 Crores and 60 Lakhs, as on date. The cost is bound to escalate during the coming time.



7. The core argument of the learned Standing counsel appearing for the Town Panchayat is that the promoter cannot abdicate his duty of contributing to the cost of laying improvements to the layout. I am of the view that this contention of the learned Standing counsel is certainly right and justified.

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8. It is true that in the consequential proceedings dated 22.06.2011, there is no reference to the liability of the promoter to bear the cost of laying the improvements as mentioned above. But then, G.O.Ms.No.130 Housing and Urban Development (UD 4-1) Department, dated 14.06.2010 clearly stipulates that laying out the land for building purposes shall be carried out in accordance with the provisions specified below:-

" Annexure.

Development Control Regulations.

Clause 9(2)(d)(iii) - The cost of laying improvements to the system in respect of road, water supply, sewerage, drainage or electric power supply that may be required as assessed by the competent authority shall be provided by the applicant at his cost. "

The entire Clause 9 set out in Annexure of G.O.Ms.No.130 Housing and Urban Development (UD 4-1) Department, dated 14.06.2010 will have to be read into the approval proceedings. It is not in dispute that these proceedings will be applicable to the case on hand. Therefore, even while sustaining my direction to grant building plan approval to the Writ petitioner, I make it clear that the purchaser of the land will have to only proceed against the promoter for securing the aforesaid amenities.

9. The learned counsel appearing for the promoter would claim that substantial sum was paid by the promoter to the Local Town Panchayat. This issue has to be decided between the promoter and the Town Panchayat. I am clarifying that in the resolution passed by the local body, there is no reference to the liability of the promoter to bear the cost of laying the improvements. But as per Clause 9 of (2)(d)(iii) of Annexure of G.O.Ms.No.130 Housing and Urban Development (UD 4-1) Department, dated 14.06.2010, the burden will have to fall only on the promoter.

10. With this clarification, the Review petition stands disposed of.

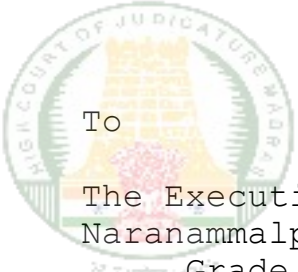
11. In view of the order passed in the Review petition, the Contempt petition stands closed.

Sd/-

Assistant Registrar(CO)

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Sub Assistant Registrar



To

The Executive Officer,
Naranammalpuram Special
Grade Town Panchayat,
Naranammalpuram,
Tirunelveli District.

+4. C.C. to M/S.B.SARAVANAN, Advocate SR.No. 78758 & 78759
+1. C.C. to M/S.N.DILIP KUMAR, Advocate SR.No. 78708

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PMU
JM/03.09.2019/5P/7C