



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 29.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**
W.P. (MD) No.2467 of 2018

G.Vijaya Shankari

... Petitioner

Vs

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

2.A.Dayasankar

(R2 is impleaded vide Court order
dated 20.03.2018 in
W.M.P. (MD) No.3087 of 2018)

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India 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 Court.

For Petitioner	: Mr.B.Saravanan
For R1	: Mr.M.Rajarajan Government Advocate
For R2	: Mr.N.Dilip Kumar

ORDER

The writ petitioner purchased a plot of land measuring about 1,500 Sq.ft vide sale deed dated 22.05.2017 executed in her favour by the second respondent herein. The second respondent herein had promoted a lay out in Naranammalpuram. The lay out measures about 33.45 acres. It is not in dispute that the lay out was granted approval by the Director of Town and Country Planning, Chennai. Following the same, the local body also issued consequential approval proceedings. Thus when the writ petitioner purchased her tiny plot of land, it was an approved lay out.

<https://hcservices.ecourts.gov.in/Hcservices/> 2.The petitioner submitted an application for building plan approval. The first respondent declined to grant approval on the ground that they have some outstanding issues with the second



respondent. This communication dated 14.12.2017 issued by the first respondent is assailed in this writ petition.

3. When the matter was taken up for hearing, the learned standing counsel appearing for the first respondent submitted that they had already given a police complaint alleging that the relevant files are missing. He would also further claim that certain charges will have to be collected from the promoter of the lay out. Yet another objection that was made is that the promoter has not complied with the conditions set out in the approval proceedings.

4. The learned Government Advocate took me through the contents of the impugned order. These allegations made by him are controverted by the learned counsel appearing for the promoters.

5. This Court makes it clear that it is not going into the said issue. This is a matter that is to be decided between the two namely the local body and the promoter in a separate proceedings. The only issue that arises for consideration is whether the first respondent can reject the petitioner's application for building plan approval.

6. When the petitioner had purchased a plot of land which is located in an approved lay out, it is certainly her right to put up a construction thereon. The only condition that the local body can impose and stipulate is regarding the height of the building, provision for set back space, etc. These norms are already laid down in the relevant Rules and planning norms. Merely because certain outstanding issues remain to be resolved with the promoter, the first respondent is not justified in returning the petitioner's application on that ground. The reason given in the impugned order are per se unreasonable and unfair.

7. In this view of the matter, the order impugned in this writ petition is quashed and this writ petition is allowed. The first respondent is directed to grant building plan approval to the writ petitioner. Ofcourse, it is open to the first respondent to stipulate appropriate conditions, taking note of the relevant requirements laid down in the planning laws and norms. Such approval shall be granted within a period of six weeks from the date of receipt of a copy of this order. It is made clear that it is open to the first respondent to levy legally permissible charges. No costs.

Sd/-

Assistant Registrar

// True Copy //



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

+1cc to Mr.B.SARAVANAN, Advocate, SR.No. 57886
+1cc to Mr.N.DILIPKUMAR Advocate, SR.No.58228
+1cc to M/s.Special Government Pleader,SR.No.

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29.03.2019

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