

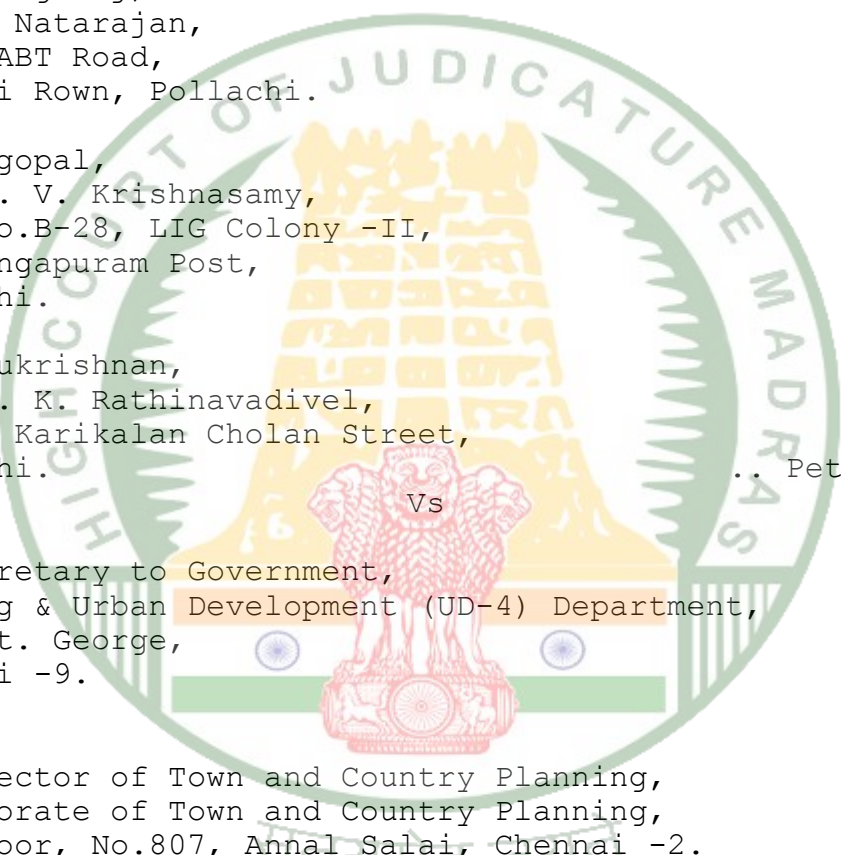
IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2020

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.9111 of 2020
and WMP.No.11107 of 2020

- 
1. Mr. N. Anguraj,
S/o. S. Natarajan,
No.28, ABT Road,
Pollachi Rown, Pollachi.
2. K. Venugopal,
S/o. S. V. Krishnasamy,
Door No.B-28, LIG Colony -II,
Mahalingapuram Post,
Pollachi.
3. R. Muthukrishnan,
S/o. N. K. Rathinavadivel,
No.62, Karikalan Cholan Street,
Pollachi. ... Petitioners
- Vs
1. The Secretary to Government,
Housing & Urban Development (UD-4) Department,
Fort St. George,
Chennai -9.
2. The Director of Town and Country Planning,
Directorate of Town and Country Planning,
4th Floor, No.807, Annal Salai, Chennai -2.
3. Joint Director,
Directorate of Town and Country Planning Office,
Corporation Shopping Complex,
2nd Floor, Dr. Najappa Road,
Coimbatore - 641 018. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the 2nd respondent to give necessary direction/delegate the power to 3rd respondent to consider our online lay out application dated 19.06.2020 and to issue planning permission within a time frame as stipulated by this Hon'ble Court.

For Petitioners : Mr.S. Mukunth
for Mr.K. Venkatasubban

For Respondents : Mr. A. Aruldoss
Government Advocate

O R D E R

This writ petition has been filed for the issue of writ of mandamus directing the second and third respondents to consider the application submitted by the petitioner on 19.06.2020 wherein, the petitioner is seeking for planning permission.

2. The case of the petitioners is that they had purchased a large extent of land and out of the same, the petitioners proposed to develop to an extent of 8.5 acres. The petitioner wanted to form a lay out and for this purpose the petitioners had also executed a power of attorney. The power of attorney agent of the petitioners approached the third respondent seeking for a necessary approval in January 2020 and certain details were sought for due to which the application could not be submitted immediately.

3. The approval of lay out is governed by the Tamil Nadu Combined Development and Building Rules, 2019. As per these Rules, the competent authority is dealt with under Rule 5(2) of the Rules and the same is extracted hereunder:

"5.Competent Authority:.....

(2) The competent authority for issue of Planning Permission in the rest of the State is, the Appropriate Planning Authority delegated by the Director any other Officer to whom the power is vested with to carry out certain activities like receiving application and to issue permission as prescribed in various provisions of these Rules."

4. The Rules provided for the delegation of powers to the field officers for grant of planning permission. As per circular dated 07.03.2019, the following rule was provided in the circular and the same is extracted hereunder:

(f) Layouts/ Sub-division of land to an extent upto 5 acres in respect of urban areas (areas of corporation, municipalities and town panchayats) and upto 10 acres in respect of rural areas (areas of village panchayats). If the layout/sub-division proposal is more than the above limit, then it shall be forwarded to the CTCP for approval. In any case, splitting of

the site, owned by the same applicant or by an individual who is one of the members of the family of the same applicant, into portions within the above limits of extent for grant of approval in phased manner by the field officer himself is prohibited."

5. As per the above circular, the lay out of land to an extent of 5 acres in respect of urban areas and 10 acres in respect of rural areas was delegated to the field officer for granting approval. Originally when the application was sought to be submitted, this Rule was in force and therefore the application could be submitted before the third respondent at Coimbatore seeking for approval.

6. As a subsequent development, a fresh circular was issued on 14.10.2019 wherein the extent, both in the urban area and rural area was amended and reduced from 5 acres to 1 hectare and 10 acres to 2 hectares respectively. As a result of this circular, the application submitted by the petitioner cannot be dealt with by the third respondent and it has to necessarily go before the second respondent for approval.

7. The learned counsel for the petitioner submitted that the petitioner is not aggrieved by the subsequent circular dated 14.10.2019 as such. The learned counsel submitted that there is a practical problem for the petitioner to travel from Pollachi to Chennai at this point of time, since the movements are totally restricted owing to pandemic situation. Therefore, the learned counsel submitted that the third respondent can be directed to process the application and thereafter it can be forwarded to the second respondent in order to take a final decision thereby it will be convenient for the petitioner to process the application and it will not violate the Rule since the final approval would be granted only by the second respondent.

8. Heard Mr.Aruldoss, learned Government Advocate appearing on behalf of the respondents.

9. The learned counsel for the petitioner has fairly submitted that under normal circumstances, the petitioners would not have had any difficulty in processing the application before the second respondent at Chennai. However the present pandemic situation prevents the petitioners from undertaking any travel to Chennai. Therefore, in order to tide over the situation, the petitioners are seeking to get the application processed by the third respondent, who was originally the authority by virtue of the earlier circular and thereafter handover the same to the second respondent, who can pass final orders on the application

submitted by the petitioners.

10. In the considered view of this Court, the suggestion given by the learned counsel for the petitioners looks very reasonable and by adopting the same the application can be processed without violating the latest circular.

11. In the result, there shall be a direction to the third respondent to process the online application submitted by the petitioners on 19.06.2019 and get whatever particulars are necessary from the petitioners and thereafter the same shall be forwarded to the second respondent, who will consider the same and pass final orders. This process shall be completed within a period of six months from the date of receipt of a copy of this order. It is made clear that this order cannot be taken as a precedent in future cases when the situation gets back to normal.

This writ petition is disposed of with the above direction. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

mp/kp

To

1. The Secretary to Government,
Housing & Urban Development (UD-4) Department,
Fort St. George,
Chennai -9.
2. The Director of Town and Country Planning,
Directorate of Town and Country Planning,
4th Floor, No.807, Annal Salai, Chennai -2.
3. The Joint Director,
Directorate of Town and Country Planning Office,
Corporation Shopping Complex,
2nd Floor, Dr. Najappa Road,
Coimbatore - 641 018.

W.P.No.9111 of 2020
and WMP.No.11107 of 2020

GJ(CO)
GN(25/09/2020)