

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.13182 of 2020

Mr.Karupannan

..Petitioner

.vs.

1.The Town and Country Planning Office,
Represented by Deputy Director,
Dharmapuri District,
Pidamaneri Road, Dharmapuri.

2.The Commissioner (Po),
Dharmapuri Municipality,
Dharmapuri

..Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Mandamus, directing the respondents 1 and 2 to approve the plots/Layouts submitted to in respect to S.No.387/2 (TS No.2/4A (part), Block 17 Vellagoundanpallayam Village measuring 0.61 acres, without reference to the lapsed detailed development plan No.16 and 17 framed sometime in the year 1995.

For Petitioner : Mr.V.Raghavachari

For R 1 : Mr.Parameswaran
Government Advocate

For R 2 : Mr.V.Jayaprakash Narayanan
State Government Pleader

ORDER

This Writ Petition has been filed for the issue of a Writ of Mandamus, directing the 1st and 2nd respondents to approve the layout with respect to the subject property, without reference to the development plan no.16 and 17 framed in the year 1995.

2.The case of the petitioner is that the subject properties are owned by the petitioner and he applied to the Deputy Director of Town Planning Authority, Dharmapuri, for approval of plots. The approval was granted on "on principle basis" through proceedings dated 12.04.2018. The same was forwarded to the 2nd

respondent and the 2nd respondent also confirmed the approval by proceedings dated 16.05.2018 and it was made subject to certain conditions.

3.The petitioner was directed to draw a plan after taking into consideration the development plan Nos.16 and 17. The grievance of the petitioner is that if such a plan is drawn, the petitioner may have to leave an extent of 60 feet in the plot in terms of the scheme roads as mentioned in the development plan. Aggrieved by the same, the present writ petition has been filed before this Court seeking for appropriate directions.

4. Mr.V.Raghavachari, learned counsel for the petitioner submitted that the development plan automatically lapses on the expiry of three years from the date of publication as per Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 (hereinafter referred as "the Act"). The learned counsel for the petitioner submitted that the respondents cannot insist the petitioner to draw a plan based on the lapsed development plan.

5.The learned Government Advocate circulated the written instructions received by him from the 1st respondent. A careful reading of the written instructions shows that there was a development plan that was published in the year 1996. The learned Government Advocate submitted that the development plan no.16 has a statutory backing and the same has to be complied with by the petitioner while drawing the plan and seeking for an approval of the layout.

6.This Court has carefully considered the submissions made on either side and the materials available on record.

7.It will be relevant to extract Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 hereunder:

"38. Release of land:- If within three years from the date of the publication of the notice in the Tamil Nadu Government Gazette under section 26 or 27 -

(a) no declaration as provided in sub-section (2) of section 37 is published in respect of any land reserved, allotted or designated for any purpose specified in a regional plan, Master Plan, Detailed Development Plan or new town development plan covered by such notice ; or

(b) such land is not acquired by agreement,
such land shall be deemed to be released from
such reservation, allotment or designation.

8.The above provision makes it very clear that if no declaration is made as provided under Section 37(2) of the Act, the reservation or allotment or designation of the land for any purpose in the development plan will stand released. There is no material to show that any declaration was made under Sec 37 (2) of the Act, pursuant to the development plan no.16. Therefore, the respondents cannot insist for following the stipulations provided in the development plan as a pre-condition for approval of the layout.

9.In view of the above discussion, there shall be a direction to the respondents to consider the approval submitted by the petitioner without reference to the development plan no.16 and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order and grant the approval, if it is otherwise in order.

10.This writ petition is disposed of with the above directions. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

KP

To

1.The Town and Country Planning Office,
Represented by Deputy Director,
Dharmapuri District,
Pidamaneri Road, Dharmapuri.

2.The Commissioner (Po),
Dharmapuri Municipality,
Dharmapuri

+1 CC to Mr.V.Raghavachari, Advocate sr 34459.

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GJ(CO)
SP(11/11/2020)