

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.11.2020

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.No.15489 of 2020
and
W.M.P.No.19333 of 2020

D.Shanmugam

... Petitioner

Vs

1. The Deputy Director of Town and Country Planning,
No.239, Phase 2, Sathivacheri,
Vellore, 632 009
Vellore District.
 2. Member Secretary,
Directorate of Town and Country Planning,
Hosur New Town Development Authority,
Hosur, Krishnagiri District.
 3. The Commissioner,
Hosur Municipal Corporation,
Hosur, Krishnagiri District.
- ... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records of 3rd Respondent Order in Na.Ka.No.3585-1734/2018/F1 dated 09.07.2020 quash the same and consequently direct the 3rd respondent to confirm the approval of regularisation order dated 20.05.2019 in Na.Ka.No.3585-1734/2018/F1.

For Petitioner : Mr.S.Gunaseelan

For R1 & R2 : Mr. E.Balamurugane
Special Government Pleader

For R3 : Mr.Mr.Subbarayalu

ORDER

On consent given by either side, the main writ petition itself has been taken up for final hearing.

2. Mr.E.Balamurugane, learned Special Government Pleader took notice for respondents 1 and 2. Mr.Subbarayalu, learned counsel took notice for the 3rd respondent/Corporation.

3. This writ petition has been filed challenging the impugned proceedings of the 3rd respondent cancelling the earlier order granting regularisation of the plot belonging to the petitioner.

4. It is seen from the records that the petitioner has purchased the subject property by virtue of a registered Sale Deed. The subject property forms part of an unapproved layout and the petitioner had purchased a plot in the said layout. The petitioner made an application for the regularisation of the plot. The 3rd respondent through proceedings dated 20.05.2019 granted regularisation subject to the conditions prescribed in G.O.Ms.78, dated 04.05.2017 and G.O.Ms.172, dated 13.10.2017.

5. The grievance of the petitioner is that the 3rd respondent all of a sudden through the impugned proceedings dated 09.07.2020 cancelled the earlier regularisation that was granted in favour of the petitioner. According to the petitioner, this was done without giving any opportunity and the petitioner had valid grounds to sustain the earlier regularisation that was granted by the 3rd respondent.

6. Heard Mr.S.Gunaseelan, learned counsel appearing for the petitioner and Mr.E.Balamurugane, learned Special Government Pleader appearing for the 1st and 2nd respondents and Mr.Subbarayalu, learned counsel appearing for the 3rd respondent.

7. A careful reading of the impugned proceedings of the 3rd respondent dated 09.07.2020 reveals the fact that the subject property that form part of the layout was already earmarked for a school and play ground and this was concealed at the time when the application was made and the regularisation was obtained. The impugned order further states that the earlier proceedings dated 20.05.2019 through which the regularisation was granted, clearly states that if the regularisation is obtained by providing false details, the same is liable to be cancelled without giving any further notice to the petitioner. On these grounds, the 3rd respondent proceeded to cancel the regularisation granted on 20.05.2019.

8. In the considered view of this Court, the petitioner has assigned certain reasons in the affidavit filed in support of the writ petition as to why the conclusion arrived at by the 3rd respondent is erroneous. This by itself means that the petitioner has an explanation to be provided to the 3rd respondent. Therefore, the 3rd respondent could have taken a decision after issuing a notice to the petitioner and calling for an explanation. The impugned order passed by the 3rd respondent has civil consequences and therefore it should have been passed only after affording opportunity to the petitioner. Therefore, the impugned order passed by the 3rd respondent dated 09.07.2020 requires inference.

9. In the result, the impugned order passed by the 3rd respondent dated 09.07.2020 is hereby quashed. The 3rd respondent is directed to issue a fresh notice to the petitioner calling for his explanation. The petitioner shall submit the explanation along with all the relevant documents to the 3rd respondent. The 3rd respondent shall thereafter consider and pass final orders strictly in accordance with law. This process shall be completed by the 3rd respondent within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Director of Town and Country Planning,
No.239, Phase 2, Sathivacheri,
Vellore, 632 009
Vellore District.
2. Member Secretary,
Directorate of Town and Country Planning,
Hosur New Town Development Authority,
Hosur, Krishnagiri District.
3. The Commissioner,
Hosur Municipal Corporation,
Hosur, Krishnagiri District.

+1cc to Mr.S.Gunaseelan, Advocate, S.R.No.35681.

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and
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PL(CO)
CSR 26.03.2021