

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.18061 of 2020

Rajendra Chordia

..Petitioner

. Vs.

1. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building No.1
Gandhi Irwin Road, Egmore,
Chennai 600 008.

2.M/s.Nu-Tech Realty Projects
Pvt. Ltd Represented by its Director
Mr. Tej Narasa Reddy
Old No.41 New No.76, Block-I, II Floor
1st Main Road, C.I.T. Nagar,
Nandanam,
Chennai 6.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 1st respondent herein to consider the petitioner's representation dated 05.08.2020, not to entertain/grant any planning permission for the development of the property comprised in S.Nos. 276/7A, 276/B and 276/1 at Old Mahabalipuram Road No.141, Kottivakkam Village Sholinganallur Taluk, Chennai, in view of the pending civil disputes in respect of the subject property in O.S.No.38 of 2018, on the file of Additional District Judge, Chengalpet.

For Petitioners : Mr.S.Prem Auxilian Raj

For 1st Respondent : Mrs.Veena Suresh
Standing Counsel

ORDER

This Writ Petition has been filed for the issue of a writ of mandamus directing the 1st respondent to consider the representation made by the petitioner on 05.08.2002, wherein, the petitioner has requested the 1st respondent not to entertain or grant any planning permission for the development of the subject property pending the civil suit in O.S.No. 38

of 2018, on the file of the Additional District Judge, Chengalpattu.

2. The case of the petitioner is that he has entered into an agreement sale with the owner of the property on 27.10.2004, and the same was also registered in the office of the Sub Registrar, Adyar. Since the owner of the property in spite of receiving the entire consideration did not perform his part of the contract by executing a Sale Deed, a suit for Specific Performance was filed in O.S.No.38 of 2018, before the Additional District Judge, Chengalpattu. The grievance of the petitioner is that the 2nd respondent has applied for planning approval before the 1st respondent and is attempting to create third party rights. Hence a representation was made before the 1st respondent not to entertain such application. Since the same was not considered, the present Writ petition has been filed before this Court.

3. Heard Mr.S.Prem Auxilian Raj, learned counsel for petitioner and Mrs.Veena Suresh, learned Standing Counsel appearing on behalf of 1st respondent.

4. In the considered view of this Court, the petitioner is merely an agreement holder. Admittedly the civil suit is pending from the year 2018 onwards. If the petitioner apprehends that third party rights will be created, the petitioner will have to necessarily seek for appropriate interim orders in the pending Suit. The petitioner cannot be allowed to invoke the jurisdiction of this Court merely for the purpose of getting an interim relief when the substantial dispute is pending before the Competent Civil Court. The Hon'ble Supreme Court has categorically held that the forum of a Writ Court cannot be used for the purpose of securing an interim relief where the final relief is only before the concerned forum. Useful reference can be made to the judgement of the Hon'ble Supreme Court in Kalabharati Advertising Vs. Hemant Vimalnath Narichania reported in (2010) 9 SCC 437.

5. In view of the above discussion, this Court is not inclined to entertain this Writ Petition and accordingly, the same is dismissed. No costs.

Sd/-

Assistant Registrar(Cj conf)

//True Copy//

Sub Assistant Registrar

To

The Member Secretary
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building No.1
Gandhi Irwin Road, Egmore,
Chennai 600 008.
+1cc to Mr.P.Veena Suresh , Advocate SR.No. 41000

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A.SK(07.01.2021)



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