

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2020

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MRS.JUSTICE R.HEMALATHA

W.P.No. 26758 of 2019

M.Dhanarajan

... Petitioner

Vs.

1.The Commissioner,
Tiruverkadu Municipality,
Tiruverkadu, Tiruvallur District,
Chennai - 77.

2.M/s.A.S.Shipping Corporation Pvt Ltd.,
Noombal Village, Chennai - 77.

3.M/s.Greenways Shipping Corporation Pvt Ltd.,
Noombal Village, Chennai - 77.

... Respondents

Petition under Article 226 of the Constitution of India
praying for a Writ of mandamus directing the first respondent
to cancel the plan approval granted to and in favour of
respondents 2 and 3 during the period from 07.06.2010 to
18.11.2011 as illegal for the construction of buildings and ware
houses and consequentially direct the first respondent to
demolish the same.

For Petitioner

.. Mr.V.Nithyanandam

For Respondents

.. Mr.R.Mohandoss for R1

Mr.V.Perumal for R2 & R3

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

The petitioner has come forward to file this writ petition
seeking a direction to the first respondent to cancel the plan
approved as early as 21.09.2011 by the first respondent in
favour of respondents 2 and 3.

2.Learned counsel appearing for the petitioner submitted that the approval ought not to have been granted in favour of respondents 2 and 3. The order passed in the earlier writ petition will not stand in the way of the petitioner getting appropriate relief. Therefore, the writ petition will have to be allowed.

3.Learned counsel appearing for the first respondent submitted that admittedly even according to the petitioner, there is an approved plan pursuant to which respondents 2 and 3 have put up construction. That is the reason why, prayer has been sought for to cancel it. Unless the petitioner demonstrates before the appropriate authority within the time granted, such a relief cannot be granted. The earlier writ petition filed by the petitioner was disposed of on 05.12.2018 giving liberty to the petitioner to challenge the approval granted in favour of respondents 2 and 3. Even now, the petitioner has not challenged the approval granted except seeking mandamus to cancel it especially when the writ petition was permitted to be withdrawn to assail the Government Order also.

4.We have heard learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

5.The planning permission was granted in the year 2011 by the first respondent in favour of respondents 2 and 3. Unless and until the said permission is specifically put to challenge, the law presumes the same to be valid. The petitioner has totally slept over the matter. The first writ petition itself has been filed in the year 2017 and that too without doing any proper verification as to whether respondents 2 and 3 have got planning permission from the first respondent or not. Even now, the petitioner has not challenged the planning permission per se but seeks a mandamus directing the first respondent to cancel it.

6.We are afraid, such a prayer cannot sustained in the eye of law. Though the question of limitation may not apply in a writ petition in strict sense, the principle governing will have to be looked into. Even in a writ petition, the doctrine of delay, laches and acquiescence will have to be considered. After the planning permission was granted in favour of respondents 2 and 3, construction has been made thereafter, which is obviously to the knowledge of the petitioner. The petitioner is stated to be living in the same area, therefore, he is expected to know the construction.

7.Now, the first writ petition itself has been filed in the year 2017 after the construction has been made in tune with the

planning permission. It was filed without collecting the requisite particulars. Merely because the writ petition was permitted to be withdrawn with liberty to challenge the Government Order, a subsequent writ petition filed seeking a mandamus to cancel the planning permission and without specifically challenging the same, cannot be accepted by this Court.

8. In such view of the matter, we do not find any reason to allow this writ petition, especially, when respondents 2 and 3 have put up construction in accordance with the planning permission. Accordingly, the writ petition stands dismissed. No costs.

Sd/-
Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

mmi/ssm

To

The Commissioner,
Tiruverkadu Municipality,
Tiruverkadu,
Tiruvallur District,
Chennai - 77.

+1cc to Mr.R.Mohandoss, Advocate SR.No.30612

+2cc to Mr.V.Perumal, Advocate SR.No.30618, 30693

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VG I(CO)
GMY (28/10/2020)

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