

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED : 10.03.2020  
CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.30578 of 2019  
and  
WMP No.30635 of 2019

M/s.Arun Excello Constructions LLP,  
Represented by its Partner  
Mr.A.M.Sundar,  
No.18, West Cott Road,  
Royapettah,  
Chennai 600 014.

..Petitioner

.v.

- 1.The Commissioner,  
Office of the Director of Town and  
Country Planning,  
807, Anna Salai,  
Chennai 600 002.
- 2.The Deputy Director of Town and  
Country Planning,  
Chengalpet Region,  
124, GST Road, Municipality Commercial Complex,  
Chengalpet 1.
- 3.The Commissioner,  
Maraimalar Nagar Municipality,  
Maraimalai Nagar.
- 4.The District Forest Officer,  
Chengalpattu Division,  
5/9, Varadaraja Farms,  
Vandavasi Road,  
Kancheepuram
- 5.The District Collector,  
First Floor,  
Collectorate,  
Kancheepuram 631 501.
- 6.The Commissioner of Land Administration  
Land Administration Department,  
Government of Tamil Nadu,  
2nd Floor, Ezhilagam, Chempauk,  
Chennai 600 005.

[R-5, R-6 impleaded as per order dt.19.12.2019  
made in WMP No.35116/2019 in WP.No.30578/2019]

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the 3rd respondent herein bearing Na.Ka.No.2974/2018/A1 dated 14.10.2019 in respect of survey No.477/1B, 477/2B and 477/3B in Sengundram Village, Maraimalar Municipality and quash the same and consequently forbear the respondents from in any manner interfering with the development of the property by the petitioner in accordance with the building plan which was duly granted and approved by the respondents herein.

For Petitioner : Mr.AR.L.Sundaresan,  
Senior Counsel  
for Mrs.R.Kamala Rani  
For R 1, 2, 5 & 6 : Mr.S.Rajagopal  
Additional Advocate General  
Asst.by Mr.E.Balamurugan  
Special Government Pleader  
For R 3 : Mr.P.Srinivas  
Standing Counsel  
For R 4 : Mr.Vijayaprasanth  
Special Government Pleader

O R D E R

This writ petition has been filed challenging the proceedings of the 3rd respondent dated 14.10.2019 and consequently to forbear the respondents from interfering with the development of the property made by the petitioner in accordance with the approval given by the concerned authorities.

2.The case of the petitioner is that they have purchased the property in the year 2017, by a registered Sale Deed dated 03.07.2017. The petitioner decided to develop the property by putting up constructions consisting of residential units. The petitioner therefore, submitted proposal for grant of plan approval to the 1st and 2nd respondents. The petitioner was directed to produce No Objection Certificates [NOC] from the concerned authorities. The petitioner submitted all the certificates. Ultimately, the site was inspected by the 2nd respondent. The 2nd respondent also gave a certificate to the effect that the site does not fall within the reserved Forest area and therefore, there is no

requirement to produce any NOC from the Forest Department. Even though, initially a condition was imposed to produce NOC from the Forest Department, the same was deleted by the proceedings of the 1st respondent dated 28.02.2019.

3.The 2nd respondent thereafter by proceedings dated 11.03.2019, gave approval for the proposed development and consequently, the 3rd respondent also gave building permit by proceedings dated 25.03.2019. The petitioner thereafter registered the project under the Tamil Nadu Real Estate Regulatory Authority as per Act, on 07.05.2019. Thereafter, the 4th respondent had sent a communication to the 2nd respondent stating that the property falls within the reserved Forest and therefore, a clarification was sought for. Consequently, the 3rd respondent suspended the approval granted through the impugned proceedings dated 14.10.2019. Aggrieved by the same, the present writ petition has been filed before this Court.

4.This Court initially granted an order of Status quo and directed the petitioner not to make any alteration to the physical features. In the meantime, this Court had already directed the 6th respondent to file a report on the action taken based on the letter dated 02.09.2018, sent by the 4th respondent.

5. A Status Report was filed by the District Collector, before this Court. The relevant portions in the Status Report is extracted hereunder:

"7. It is submitted that as per the Fort St.George Gazette No.52 dated 23.12.1924, 400 acres of land in Sengundram Village of Chengalpattu District (formerly Kancheepuram District) which was previously a pocket of reserved forest area, was de-reserved with effect from December 23rd of 1924.

8.Furthermore, it is submitted that in the above Gazette declaration dated 23.12.1924, the exact boundaries, like abutting S.Nos. and village stones, of the 400 acres of forest land de-reserved in Senkundram Village were clearly indicated.

9.It is respectfully submitted that taking the fact of de-reservation of 400 acres of forest land (vide the Fort St. George gazette dated December, 23, 1924) which was previously part of Senkundram reserved forest, and was comprised in S.No.423 as per the RSR of the year 1911, as a point of departure, and relying upon the present-day topographic survey conducted by the Taluk surveyors to trace the boundaries of the 400 acres of de-reserved forest land mentioned supra by using the details of boundaries mentioned in the said gazette dated 23.12.1927 as abutting the said

forest land, the following conclusions could be arrived upon.

1)The boundaries of the above mentioned 400 acres of de-reserved forest lands as mentioned in the above-said gazette coincide with and get perfectly superimposed on the piece of 400 acres of land identified through present-day survey done on the basis of the details of boundaries given in the said gazette notification which declared the forest land in S.No.423 as de-reserved forest.

2)The S.Nos.477/1,2&3 have also been identified as having been encompassed within the said 400 acres of the de-reserved forest land.

3)The S.Nos.477/1,2&3, being the entities comprised within the above 400 acres of de-reserved forest land, are visibly the non-forest land belonging to the private i.e., to the petitioner institution.

Further, it is submitted that the following are the various survey numbers, including the disputed S.Nos.477, which were identified to have been comprised in the above said 400 acres of de-reserved forest land.

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-----Survey Numbers 483, 291, 292,  
293, 294, 466, 467, 468, 469, 470, 471, 472, 473,  
474, 475, 476, 477, 478, 479, 480, 454, 455, 456,  
457, 458, 459, 460, 461, 462, 463, 464, 465, 444,  
445, 446, 447, 448, 449, 450, 451, 452, 453, 484,  
485, 486, 487, 488, 489, 490, 491, 492, 493, 494,  
495, 496, 497, 498, 499, 500, 501, 502, 503, 504,  
505, 506, 507, 508, 509, 510, 511, 512, 513 and  
514 of Senkundram Village in Chengalpattu  
District.  
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6. The learned Additional Advocate General appearing on behalf of the respondents 1, 2, 5 & 6, submitted that the property belonging to the petitioner does not fall within the reserved Forest area. For this purpose, the learned Additional Advocate General apart from relying upon the stand taken by the District Collector in the Status Report, also relied upon two Gazette Notifications. The first Gazette Notification was issued in the year 1924, in Gazette Notification No.355 wherein, it is found that the property in question was declared not to form part of the reserved Forest with effect from 01.02.1925. This was followed by a Direct Gazette Notification in the year 1930.

7.By relying upon the above Gazette Notifications, the learned Additional Advocate General submitted that a thorough search was made including all the old documents and it was found that the property belonging to the petitioner

does not fall within the reserved Forest area. A rough sketch was also filed before this Court and it is found that the property in question has not been earmarked within the Sengundram reserved Forest.

8.Mr.AR.L.Sundaresan, learned Senior Counsel appearing on behalf of the petitioner submitted that in view of the specific stand taken by the respondents, the order passed by the 3rd respondent keeping the approval in abeyance must automatically go and the petitioner must be allowed to proceed further with the development activities.

9.The learned Additional Advocate General in reply to this submission, submitted that in order to avoid any future complications, the 4th respondent must take note of the fact that the property in question does not fall within the reserved Forest and necessary entries will have to be made in the records. This will thereafter be conveyed to the 2nd and 3rd respondents. The learned Additional Advocate General submitted that by adopting this process, the entire issue can be resolved and the 2nd and 3rd respondents will also get a clarity while processing the papers pertaining to the property belonging to the petitioner.

10.The doubt raised by the 4th respondent has now been resolved and the same is clear from the Status Report filed by the District Collector and the submission made by the learned Additional Advocate General. Therefore, what remains is that the 4th respondent must make necessary entry in the register and convey the same to the 3rd respondent. Immediately thereafter, the 3rd respondent has to withdraw the impugned proceedings dated 14.10.2019. This will enable the petitioner to proceed further with the approval already granted to develop the property. This process shall be completed within a period of four weeks from today and necessary orders shall be passed by the 3rd respondent withdrawing the impugned proceedings dated 14.10.2019.

This writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

KP

To

- 1.The Commissioner,  
Office of the Director of Town and  
Country Planning,  
807, Anna Salai,  
Chennai 600 002.
- 2.The Deputy Director of Town and  
Country Planning,  
Chengalpet Region,  
124, GST Road, Municipality Commercial Complex,  
Chengalpet 1.
- 3.The Commissioner,  
Maraimalar Nagar Municipality,  
Maraimalai Nagar.
- 4.The District Forest Officer,  
Chengalpattu Division,  
5/9, Varadaraja Farms,  
Vandavasi Road,  
Kancheepuram
- 5.The District Collector,  
First Floor,  
Collectorate,  
Kancheepuram 631 501.
- 6.The Commissioner of Land Administration  
Land Administration Department,  
Government of Tamil Nadu,  
2nd Floor, Ezhilagam, Chepauk,  
Chennai 600 005.

+1cc to Mr.P.Srinivas , Advocate SR.No. 21369  
+1 cc to Government Pleader Sr.No. 22163

W.P.No.30578 of 2019

A.SK(16/03/2020)

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