

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.34242 of 2019

1.B.Indumathi
2.B.Vignesh
3.Roja Priya
4.L.Malleswari

...Petitioners

Vs.

1. The State rep by its
Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Chennai 9.
2. The Member Secretary,
Chennai Metropolitan Development Authority
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai 8.
3. The Commissioner/ Block Development Officer,
Kundrathur Panchayat Union - Padappai,
Sriperumbudur Taluk,
Kancheepuram District.
4. The Chief Engineer,
Water Resources Department,
Chennai Region,
Public Works Department,
Chepauk, Chennai 5.

...Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Mandamus, directing the respondents herein to consider and dispose petitioner's representation dated 26.10.2019 requesting to reclassify the lands comprised in Survey Nos.112, 113/1, 113/2A, 113/2B, 114/1A2, 114/1B, 114/2, 117/2A2, 117/3A, 117/3B, 117/4A, 117/4C, 117/5, 117/8 and 117/12B situate at Naduveerapattu Village, Sriperumbudur Taluk, Kancheepuram District, which falls within the limits of Kundrathur Panchayat Union as Primary Residential Zone and grant layout approval at the earliest and pass orders.

For Petitioners : M/s.S.P.Arthi
For Respondents : Mr.Annai Ezhil,
Government Advocate for R1, R3 and R4
Mr.P.Tamilmani for R2

O R D E R

The present writ petition has been filed for the issue of Writ of Mandamus directing the respondents to consider the representation made by the petitioner on 26.10.2019, wherein the petitioners have requested for reclassification of the subject lands as Primary Residential Zone and further sought for layout approval.

2.The petitioners wanted to promote house sites in the subject properties and they submitted an application before the third respondent seeking for layout approval in the year 2016. The petitioners also approached the second respondent and sought for reclassification of the lands from the agricultural lands to primary residential zone. There were several communications between the petitioners and the second respondent. Since the second respondent was insisting for production of an Inundation Certificate from the Public Works Department, the petitioners also made a representation to the Public Works Department, requesting the authority to conduct a survey and submit the Inundation Certificate to the Chennai Metropolitan Development Authority. The grievance of the petitioners is that there was absolutely no response from the side of respondents 2 and 3 and left with no other alternative, the present writ petition has been filed before this Court seeking for appropriate directions.

3.The second respondent has filed a counter affidavit in this case. It is stated in the counter affidavit that the Technical Committee held a meeting on 05.03.2019 and decided to obtain remarks from Public Works Department with regard to the Inundation aspect. It is further stated that the report from Public Works Department is awaited and further action will be taken on the application submitted by the petitioners after getting the remarks of the fourth respondent.

4.The learned counsel for the petitioners submitted that as per the office order of Chennai Metropolitan Development Authority, dated 29.05.2018, obtaining No Objection Certificate from Public Works Department on the Inundation aspect should be dispensed with and it should be insisted only while taking up the development in a site abutting any Public Works Department lake or there is an active channel passing through the site. The

learned counsel by pointing out to this office order submitted that on the facts of the present case, there is no requirement for getting an Inundation Certificate from the Public Works Department, since both the contingencies do not arise for consideration. The learned counsel further submitted that unless the reclassification is done by the second respondent, the proposal for layout will not be considered by the third respondent.

5. Per contra, Mr. Tamilmani, learned counsel appearing on behalf of the second respondent submitted that inspection was conducted by the officials belonging to Chennai Metropolitan Development Authority and it was noticed that there is a water course in existence on the Southern side of the site along its boundaries and therefore, the second respondent will have to necessarily get an Inundation Certificate from Public Works Department before processing the applications submitted by the petitioners. The learned counsel further submitted that once the remarks are received from Public Works Department, the applications submitted by the petitioner will be processed and necessary orders will be passed.

6. Heard, Mr. Annai Ezhil, learned Government Advocate appearing on behalf of the respondents 1, 3 and 4.

7. The application was submitted by the petitioners in the year 2016 and necessary payment was also made. It is seen from the records that there is a communication made by CMDA to the Public Works Department on 04.04.2017 seeking for specific remarks on inundation aspect. The second respondent wanted to obtain these remarks since the officials observed that a water course is in existence on the southern side of the site.

8. The learned counsel for the petitioners submitted that the nearby properties have already been reclassified and necessary approval has been granted for forming a layout. The learned counsel submitted that it is not known as to why such an Inundation Certificate is insisted in the case of the petitioners and more particularly, when the approval has been granted to the nearby properties.

9. The second respondent has sought for remarks from Public Works Department in the year 2017 and it has been kept in cold storage by Public Works Department without responding to the request made by the second respondent. It is not very difficult for the Public Works Department to submit its remarks to the second respondent and it need not have taken such a long time to send a simple report with regard to the Inundation aspect. Like always, the file is moving from one office to another and ultimately the matter ends up before this Court.

10. In view of the above discussion, there shall be a direction to the fourth respondent to submit the remarks to the second respondent within a period of four weeks from the date of receipt of a copy of this order. The second respondent on receipt of the remarks shall pass necessary orders within a period of six weeks thereafter. Based on the orders passed by the second respondent, the third respondent shall thereafter consider the application submitted by the petitioner for layout approval. The petitioners are directed to make a fresh representation to respondents 2 and 4 along with all the necessary documents and a copy of this order. This writ petition is disposed of with the above directions. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vr

To

1. The Secretary to Government,
Housing and Urban Development Department,
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2. The Member Secretary,
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4. The Chief Engineer,
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Chennai Region,
Public Works Department,
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+1cc to Government Pleader, S.R.No.26848

W.P.No.34242 of 2019

SKS(CO)
KKV/24/08/2020