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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.12.2021

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM
AND
THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

W.P. NO.4893 OF 2021
AND WMP.NO.5502 OF 2021

M.Dhanarajan

.. Petitioner

Versus

1. The Commissioner,
Tiruverkadu Municipality.

2. M/s.A.S.Shipping Corporation Pvt. Ltd.,
Noombal Village,
Chennai 600 077.

3. M/s.Greenways Shipping Corporation Pvt. Ltd.,
Noombal Village,
Chennai 600 077.

.. Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Declaration, declaring the approval Nos.87/2010-2011, 101/2010-2011, 303/2011-2012, 314/2011-2012, 316/2011-2012, 317/2011-2012, 448/2011-2012, 300/2011-2012, 301/2011-2012, 302/2011-2012, 315/2011-2012, 350/2011-2012, 351/2011-2012, 352/2011-2012, 353/2011-2012, 424/2011-2012, 425/2011-2012, 426/2011-2012, 427/2011-2012, granted to and in favour of respondents 2 and 3 by the first respondent during the period of 07.06.2010 to 18.11.2011 as illegal for the construction of Buildings and Warehouses and consequently direct the first respondent to demolish the same.

For petitioner : Mr.M.Mohamed Hassain

For respondents

for R1 : Mr.R.Mohan Doss

for RR2 & 3 : (Notice served). No appearance.



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ORDER

(The Order of the Court was made by K.KALYANASUNDARAM, J)

The Writ Petition is heard through video conferencing.

2. This Writ Petition has been filed for issuance of Writ of Declaration, declaring the approval granted in favour of the respondents 2 and 3 as illegal.

3. It is the submission of the learned counsel appearing for the petitioner that the respondents 2 and 3 have constructed Warehouses in violation of the Building Rules and Regulations. The planning approval granted on the basis of the G.O.Ms.No.234 and 235, Housing and Urban Development Department, dated 30.10.2012 were quashed in W.P.No.1664 of 2013, etc., batch of cases.

4. The learned Standing Counsel appearing for the first respondent Mr.R.Mohan Doss would argue that the respondents 2 and 3 have constructed Warehouses as per the approved plan issued by the first respondent. It is also submitted that this is not the first Writ Petition and the earlier Writ Petitions filed by the petitioner in W.P.Nos.17451 of 2017, 5891 of 2019 and 26758 of 2019 for the similar prayer were dismissed. Hence, there is no merit in this Writ Petition.

5. It is apposite to note that the Division Bench of this Court in W.P.No.26758 of 2019 has observed as follows:-

"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 the same area, therefore, he is expected to know the construction.

7. Now, the first writ petition 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"

6. The earlier Writ Petition above referred was filed for issuance of Mandamus directing the first respondent to cancel the plan granted in favour of the respondents 2 and 3. The present Writ Petition has been filed seeking declaration of the approval as null and void. Though the learned counsel appearing for the petitioner submitted that the present Writ Petition is not similar to the earlier Writ Petition, we are unable to agree with the same. It is to be noted that the petitioner is not able to substantiate that the second and third respondents were granted approval in pursuance of G.O.Ms.Nos.234 and 235. Hence, we find no merit in this Writ Petition.

7. In such view of the matter, the Writ Petition stands dismissed as devoid of merits. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

pvs

To

The Commissioner,
Tiruverkadu Municipality.

+2ccs to Mr.R.Mohan Doss, Advocate, S.R.No.64593

W.P. No.4893 of 2021

SSI(CO)
PM/19/01/2022