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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

WRIT PETITION NO.18679 OF 2021

AND

W.M.P.NOS.19929 AND 19930 OF 2021

M/s.Silver Sands Property Development (P) Ltd.,
TF-4, 12/9, Sree Mansion Apartments,
Rathnambal Street, Rangarajapuram,
Chennai - 600 024.

Represented through its Power of Attorney Agents

1. K.Ethiraj

2. D.V.Prathap Reddy

... Petitioner

-Vs-

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

2. The Commissioner,
Poonamallee Panchayat Union,
Poonamallee, Chennai - 600 056.

3. The President,
Sorancheri Panchayat Union,
Chennai - 600 072.

4. Durai

... Respondents

PRAYER:-

Writ Petition under Article 226 of the Constitution of India
praying for the issuance of a Writ of Certiorari to call for the
records of the 2nd respondent in his proceedings in
Na.Ka.No.3812/2020/A3, dated 19.07.2021 and the consequential
proceedings of the 3rd respondent dated 20.07.2021 and quash the
same.



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For Petitioner : Mr.S.Ganesh

For Respondents : Mrs.Veena Suresh,
Standing Counsel - for R1

Mr.P.Srinivas
Standing Counsel - for R2

Mr.K.M.D.Muhilan,
Government Advocate - for R3

Mr.W.M.Abdul Majeed - for R4

O R D E R

This writ petition has been filed challenging the impugned proceedings of the second respondent dated 19.07.2021, wherein the second respondent has temporarily suspended the building permit granted on 01.03.2021 on the ground that the petitioner has not satisfied the conditions stipulated in the planning permit.

2. The case of the petitioner is that, they are property developers and they developed a property in Sorancheri Village, Poonamallee Taluk, Tiruvallur District. The petitioner made an application before the first respondent seeking for planning permit. The first respondent, before issuing planning permit had received the reports from various authorities and one such report was received from the Public Works Department. This report dated 17.06.2013 stated as follows.

"Internal access through the defunct field channel to the patta lands of applicant are technically feasible by forming roads in 14 places for required sizes as mentioned in the Annexure-I and in that case no culverts are necessary. Apart from that, the site is bounded by a Village road on the Northern side."

3. The petitioner thereafter executed a gift deed on 06.12.2013 in favour of the Poonamallee Panchayat Union and the lands that were gifted were earmarked for public purposes which are to be maintained by the Panchayat Union.

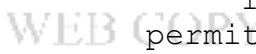
4. The first respondent proceeded to issue a planning permit to the petitioner through proceedings dated 11.02.2014. While granting the planning permit, the first respondent issued a communication dated 03.02.2014 to the second respondent and the relevant portion in the communication is extracted hereunder.



7. When the matter was taken up for hearing today, the learned Government Counsel appearing on behalf of the second respondent and the third respondent produced the original file in order to substantiate the fact that notice was in fact issued to the petitioner and the petitioner had also participated in the enquiry and only thereafter, the impugned order came to be passed by the second and third respondents.

8. The learned counsel for the petitioner attacked the impugned proceedings of the second respondent on two grounds. The first ground of attack was that the impugned order was passed without affording any opportunity to the petitioner and therefore, it is in violation of principles of natural justice. The other ground of attack on the side the petitioner is that, they have fulfilled all the conditions as stipulated in the planning permit and the second respondent has acted in a hasty manner based on the complaint given by the fourth respondent. It was also submitted that the fourth respondent has already filed a suit before the competent Civil Court and there is an on-going dispute between the petitioner and the fourth respondent and hence the fourth respondent with an intention to stop the development, has given a false complaint against the petitioner and the same was acted upon by the second and third respondents.

9. The fourth respondent has filed a counter affidavit along with typed set of papers. The learned counsel for the fourth respondent submitted that insofar as the private dispute between the petitioner and the fourth respondent is concerned, there is already a pending suit in O.S.No.101 of 2019, on the file of the District Munsif Court, Poonamallee and that dispute will be independently agitated between the parties and that has got nothing to do with the issue that is involved in the present writ petition. The learned counsel further submitted that while the CMDA granted approval to the petitioner, 18 conditions were imposed which were supposed to be fulfilled by the petitioner. There was a further condition that periodical inspection will be made by the local authority and the very layout approval is subject to compliance of the conditions. The learned counsel further submitted that one of the main condition that was imposed was that the petitioner should have constructed 14 culverts and should have constructed channels to ensure the free flow of water and this main condition is not complied with by the petitioner. The learned counsel therefore submitted that there is absolutely no ground to interfere with the decision taken by the second respondent and the petitioner has to fulfill those conditions failing which the agricultural lands that are situated in and around the property will be inundated with water during rainy season and they will be put to irreparable loss and hardship.



३.१.२. अनेक प्रकारचे

13. It is true that the petitioner got exposed only due to the complaint given by the fourth respondent and it may also be true that the fourth respondent has an axe to grind. That becomes irrelevant insofar as this Court is concerned, since this Court is more interested in making the petitioner comply with the conditions imposed by the first respondent while granting the planning permit. The second and third respondents have not cancelled the building permit and the impugned proceedings merely suspends the building permit in order to ensure that the petitioner fulfills the conditions imposed while the planning



permit was granted in their favour. Therefore, this Court does not find any ground to interfere with the impugned proceedings of the second respondent.

14. The learned counsel for the petitioner took a specific stand that the petitioner has complied with the conditions imposed in the planning permit. If that be so, the petitioner will have to go before the second respondent and place all the materials to substantiate this stand. It will be open to the second respondent to take that into consideration and make a field inspection and thereafter take a decision as to whether the suspension of the building permit will continue or the same can be lifted. Obviously before any decision is taken, the petitioner will have to be put on notice.

15. In the result, this writ petition is disposed of with a direction to the petitioner to give their explanation and submit all the relevant materials to substantiate that they have fulfilled the conditions imposed in the planning permit. On receipt of the same, the second and third respondent shall scrutinise the same and make a field inspection and thereafter take a decision in accordance with law. It is made clear that till the the second and third respondents take a decision, the suspension order passed by the second and third respondents shall remain in force. The decision shall be taken by the second and third respondents in this regard within a period of eight weeks from the date of the explanation and the submission of materials by the petitioner.

16. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

KST

To

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



2. The Commissioner,
Poonamallee Panchayat Union,
Poonamallee,
Chennai - 600 056.

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3. The President,
Sorancheri Panchayat Union,
Chennai - 600 072.

+1cc to Mr.S.Ganesh, Advocate, S.R.No.51632
+1cc to Mrs.Veena Suresh, Advocate, S.R.No.51922
+1cc to Mr.W.M.Abdul Majeed, Advocate, S.R.No.51467

W.P.NO.18679 OF 2021

PA (CO)
PBS/25/10/2021