



respondent had sought for the submission of certain documents and the same was also submitted before the respondent.

3. The respondent through the impugned letter dated 28.07.2020 returned the application submitted by the petitioner on the ground that the approach road to the proposed layout belongs to an un-approved layout called as Rahmath Garden and the width of the approach road is only six meters and according to the respondent, it does not satisfy the requirements of Rule 47 (1) (a) of the Tamil Nadu Combined and Development Building Rules, 2019, which stipulates that there must be a minimum width of seven meters approach road for a layout. Aggrieved by the same, the present Writ Petition has been filed before this Court.

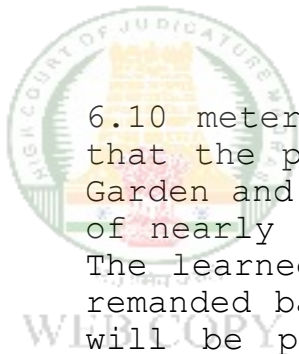
4. Heard Mr.Ajmal Khan, learned Senior counsel appearing for the petitioner and Mr.M.Muniasamy, learned Additional Government Pleader appearing for the respondents.

5. The respondent has filed a counter affidavit. The relevant portions in the counter affidavit are extracted hereunder:-

"3. I submit that the petitioner has also sent the application dated 04.11.2019 for approval of regular layout is T.S.No.17/1 of Block No.9, Ward No.L, Vadiveeswaram South Village, Agasteeswaram Taluk on 11.12.2019 while go through these, it was found that the petitioner has not annexed the documents such as FMB, Chitta, Encumbarance Certificate, Legal Opinion Undertaking Letter regarding ownerships etc., mentioned with prescribed checklist of this department. Hence, it was returned back to the petitioner vide this office Letter No.1601/2019NLPA, dated 14.12.2019.

4. I submit that the petitioner has again applied for layout approval in T.S.No.17/1 of Block No.9, Ward No.L, Vadiveeswram South Village, Agasteeswaram Taluk on 16.07.2020. It was inspected the site and found that the site abuts the approach road (Rahmath Garden) having width only 6.00m. But the TNCDBR 2019 and amendment No.14(a) Section 47 (1)(a) explains the minimum width of the public street / road on which the site abuts or gains access shall be 7.00m for residential layout development. This site abuts road width only 6m. Hence the application of the petitioner requested for layout approval was rejected wide this office Letter No.506 /20 NLPA dated 28.07.2020."

6. The main ground that was urged by the learned Senior counsel appearing on behalf of the petitioner is that Rahmath Garden that was referred in the impugned letter by the respondent has been subsequently given layout approval and this approval was granted after taking into consideration the width of the approach road as



6.10 meters. It was further urged by the learned Senior counsel that the property of the petitioner is situated behind the Rahmath Garden and the existing road which abuts the public road has a width of nearly ten meters and this was not considered by the respondent. The learned Senior Counsel further submitted that the matter can be remanded back to the file of the respondent and all these materials will be placed before the respondent and the respondent can be directed to consider the same and take a decision in accordance with law.

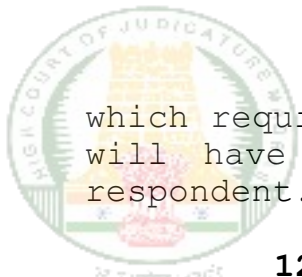
7. The learned Additional Government Pleader appearing on behalf of the respondent would submit that the respondent has merely returned the application by citing certain deficiencies and if the petitioner is able to clarify / rectify these deficiencies, the application will be considered by the respondent in accordance with law. The learned Additional Government Pleader reiterated the stand taken by the respondent at Paragraph Nos.3 and 4 of the counter affidavit.

8. This Court has carefully considered the submissions made on either side and the materials available on records.

9. The respondent has raised two main objections to justify their stand for not entertaining the application submitted by the petitioner seeking for layout approval. The first objection is with regard to certain documents which are sought by the respondent and which are listed at Paragraph No.3 of the counter affidavit. Insofar as this objection is concerned, the learned Senior counsel for the petitioner submitted that these documents will once again be submitted before the respondent.

10. The second objection that was raised by the respondent is with regard to the approach road that abuts the site where the petitioner is seeking for the approval of layout. According to the respondent, the approach road has only a width of six meters and it falls within the unapproved layout of Rahmath Garden and it does not satisfy the requirements of the relevant rules that has been referred supra. The petitioner has taken a very specific stand that subsequently, the respondent has approved / regularized the layout plan of Rahmath Garden and while doing so, the very same approach road measuring 6.10 meters was taken into consideration and therefore, the same yardstick must be applied even in the case of the petitioner also. That apart, a specific stand that was also taken to the effect that there is a ten meters width abutting road which connects the existing road belonging to the petitioner behind the Rahmath Garden and the same can be approached only through 6.10 meters approach road from Rahmath Garden.

11. The contentions raised by the learned Senior counsel appearing on behalf of the petitioner are factual considerations



which requires to be gone into by the respondent. These contentions will have an impact on the final decision to be taken by the respondent.

12. In view of the above discussion, this Court deems it fit to remand the matter back to the file of the respondent. The petitioner is directed to re-present the application along with all the necessary particulars and also with a detailed representation along with a copy of this order. The respondent on receipt of the same, shall consider the application on its own merits and in accordance with law and pass final orders within a period of eight weeks from the date of receipt of a copy of the application from the petitioner.

13. The writ petition stands disposed of with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Tsg

NOTE:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Member Secretary / Deputy Director,
Office of Town Planning Authority,
Kanyakumari District.

... Respondent

+1 CC to M/s.M.RAMU, Advocate (SR-16157[F] dated 17/04/2021)

+1 CC to SPL GP (SR-16278[F] dated 17/04/2021)

W.P. (MD) .No.2053 of 2021

Dated:15.04.2021

RRS (10.05.2021) 4P 4C