



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.08.2021

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)No.8359 of 2021

WEB COPY

C.Chandra

... Petitioner

Vs.

1. The Director of Town and Country
Planning,
2nd, 3rd and 4th floor, E 7 C Market Road,
Koyambedu, Chennai - 600 107.

2. The Asistant Director,
District Town and Country Planning,
Plot No.282, Periyar Nagar,
Pudukottai, Pudukottai District.

3. The Commissioner,
Pudukottai Municipality,
Pudukottai, Pudukottai District.

... Respondents

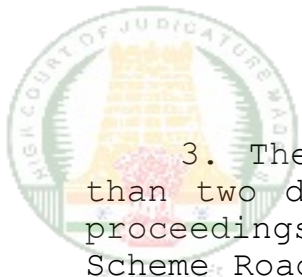
Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to reconsider the Scheme Road proposed to be passed through petitioner's property in T.S.No.8619, Pudukottai Town, Pudukottai Taluk and Pudukottai District by considering petitioner's representation dated 15.03.2021.

For Petitioner	: Mr.R.Balakrishnan
For Respondents	: Mr.R.Baskaran, Counsel for State for R1 and R2 Mr.P.Mahendran, Standing Counsel for R3

ORDER

The petitioner seeks a mandamus for reconsideration of the Scheme Road which was proposed to be constructed and which would have passed through the petitioner's property in T.S.No.8619, Pudukottai Town, Pudukottai Taluk and District.

2. The petitioner states that he purchased the property in T.S.No.8619/5 by a registered sale deed dated 28.12.1995 for valuable consideration. When the petitioner initiated action to develop the property by applying for a layout approval from the third respondent, the third respondent informed the petitioner that there is a proposal to lay a Scheme Road and therefore the layout approval cannot be granted.



3. The petitioner states that in spite of the lapse of more than two decades, neither has the respondent initiated acquisition proceedings nor taken any steps with regard to the formation of the Scheme Road. However, in view of the proposal for such Scheme Road, the petitioner has been unable to develop his property and derive any benefit therefrom. Therefore, the petitioner submitted a representation on 15.03.2021 requesting that the proposal for the Scheme Road be reconsidered so as to not prejudice the petitioner. It is stated that such representation has not been acted upon till date.

4. Mr.P.Mahendran, learned Standing Counsel for the third respondent- Pudukottai Municipality, states that a statutory remedy is provided in terms of Section 33(1) of the Tamil Nadu Town and Country Planning Act, 1971 (in short "the Act of 1971"). As per the said provision, he points out that an affected person may seek a variation of the detailed development plan. According to him, the petitioner should have availed of the statutory remedy instead of approaching this Court.

5. In response to this contention, learned counsel for the petitioner states that his representation has been submitted to all the authorities concerned, including the first respondent, who is vested with power under Section 33(1) of the Act of 1971. Consequently, he submits that his representation may be treated as one made under Section 33(1) of the Act and disposed of within a reasonable time frame.

6. Mr.R.Baskaran, learned counsel for the State, appears for the respondents 1 and 2 and relies upon the counter-affidavit filed in response to the writ petition.

7. Upon consideration of the aforesaid submissions, it is clear that the petitioner is a person aggrieved by the proposal for the Scheme Road, especially in light of the non-implementation thereof for a considerable period of time. However, the decision as to whether to implement such a project or not and whether such project can be implemented subject to variations is a decision squarely within the executive domain.

8. Accordingly, without going into the merits of the petitioner's request for reconsideration of the Scheme Road, the first respondent herein is directed to treat the petitioner's representation dated 15.03.2021 as a request for variation in terms of Section 33(1) of the Act of 1971 and dispose of the same by a reasoned order within a period of three months from the date of receipt of a copy of this order after providing a reasonable opportunity to the petitioner and any others affected by such order.



8. W.P(MD).No.8359 of 2021 is disposed of on these terms without any order as to costs.

Sd/-

Assistant Registrar (P&A)

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/ /2021

Sub Assistant Registrar(CS)

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To

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3. The Commissioner,
Pudukottai Municipality,
Pudukottai, Pudukottai District.

+1 CC to M/s.P.MAHENDRAN, Advocate (SR-25105[F] dated 03/08/2021)

+1 CC to M/s.R.BALAKRISHNAN, Advocate(SR-25152[F] dated 04/08/2021)

+1 CC to M/s.GP (SR-25057[F] dated 03/08/2021)

W.P. (MD)No.8359 of 2021

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MGJ(12.08.2021) 3P 7C