



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2021

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THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN**

W.P. (MD)No.12684 of 2021

1.D.Parvathi
2.E.Rajeswari

... Petitioners

vs.

1.The District Collector,
Madurai District.

2.The Assistant Director/Member Secretary (I/C),
District Local Planning Authority,
Office of Town and Country Planning Officer,
Madurai District.

3.The President,
Narasingam Village Panchayat,
Narasingam, Madurai East Union,
Madurai District.

4.M.P.Cholan
5.M.P.Periyandi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records in respect of the impugned order, dated 12.07.2021 passed by the third respondent and quash the same as illegal and in consequence to direct him to grant the Final Approval to the petitioner's layout made in their land ad measuring 73 cents, in S.No.114/2B, in Narasingam Bit-4 Village, Madurai East Taluk, Madurai District in pursuant to the Technical Approval, dated 04.05.2021 granted by the second respondent.

For Petitioners :Mr.W.Pamelin

For R1 and R2 :Mr.N.Satheesh Kumar
Additional Government Pleader

For R3 :Mr.D.Ghandiraj
Special Government Pleader

For R4 and R5 :Mr.V.Vijayasethupathy



O R D E R

This Writ Petition has been filed in the nature of Certiorarified Mandamus seeking records of the third respondent, dated 12.02.2021 and to interfere with the same and to issue a direction to the third respondent to grant final approval to the layout plan submitted by the petitioners with respect to the land measuring 75 cents in S.No.114/2B, in Narasingam Bit-4 Village, Madurai East Taluk, Madurai District.

2.Heard Ms.W.Pamelin, learned Counsel for the petitioners, Mr.N.Satheesh Kumar, learned Additional Government Pleader for the respondents 1 and 2, Mr.D.Ghandiraj, learned Special Government Pleader for the third respondent and Mr.V.Vijayasethupathy, learned Counsel for the respondents 4 and 5.

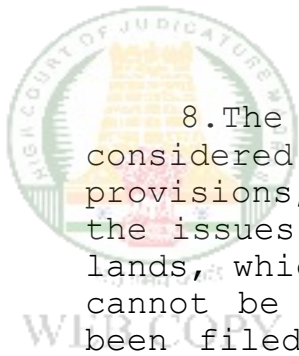
3.In the affidavit filed in support of this Writ Petition, the second petitioner had stated that they had purchased the aforesaid lands measuring 73 cents, which is part of a larger area of 1.21 acres in S.No.114/2B, in Narasingam Bit-4 Village, Madurai East Taluk, Madurai District, by a registered sale deed, dated 16.06.2020. They claimed to be in possession of the land.

4.The larger area of 1.2 acres belonged to one Janaki Ammal and later, it devolved on to her children, in view of a registered Will, dated 29.04.1945.

5.The petitioners had sub divided the land they had purchased, namely, 73 cents, and had also obtained patta. They wanted to develop the land by sub dividing it further into plots and selling them to proposed purchasers. In short, they can be called land developers.

6.The petitioners claim that a technical approval, dated 04.05.2021 had been granted by the second respondent and a consequential approval/final approval will have to be granted by the third respondent/President of Narasingam Village Panchayat. But, unfortunately, the fourth and fifth respondents claim possessory right in their capacity as cultivating tenants. The fourth and fifth respondents also filed a suit in O.S.No.57 of 2021, which is now pending before the District Munsif Court, Madurai Taluk, seeking such recognition and declaration and consequential injunction protecting possession.

7.The learned Counsel for the petitioners very vehemently argued that the pendency of the said suit should not be put up against the petitioners, since the suit has been filed with a *mala fide* intention and lacks *bone fide*. However, the petitioners are also the defendants in the said suit.



8.The proper course for them, if that particular plaint is considered to lack *bona fide*, would be to resort to the necessary provisions, as provided under the Code of Civil Procedure, address the issues in the suit and thereafter, proceed further to enjoy the lands, which they have purchased. However, the pendency of a suit cannot be simply brushed away or swept under the carpet. It has been filed in a Court of competent jurisdiction. This Court will have to recognise the jurisdiction and the competency of District Munsif in examining the issues raised in that particular suit, namely, O.S.No.57 of 2021 and invite the said District Munsif to pass necessary orders in accordance with law.

9.The learned Counsel for the petitioners states that towards such participation, they had filed a written statement. Once a written statement had been filed, it is incumbent on the part of the District Munsif to frame issues and thereafter, proceed further in accordance with the Rule. There is also another option open to the District Munsif, namely, to refer the parties to Mediation under Section 89 of Code of Civil Procedure, if there are possibilities of settlement being reached.

10.It is now open to the petitioners to, on the one hand and the respondents 4 and 5 on the other hand, decide whether they would taken an adversial stand against each other or sit across the table and settle the issues. The option entirely to be taken by them and I leave it to their wisdom to take an appropriate decision. But, so long as the suit is pending, it is incumbent that every Court recognises the jurisdiction of the District Munsif and permits the District Munsif to proceed in manner known to law.

11.A counter affidavit had also been filed by the third respondent. Mr.D.Ghandiraj, learned Special Government Pleader for the third respondent pointed out that the lands have been described as "waste land" and also stated that the third respondent has also been made as the defendant in the suit. It is also pointed out by the learned Special Government Pleader that in view of the pendency of the suit, it would be extremely inappropriate on the part of the third respondent to proceed further for granting any approval,

12.May be, a final approval alone is sought consequent to the technical approval already granted by the second respondent, but still there is an obligation to respect the jurisdiction of the District Munsif Court, Madurai Taluk, before whom the said suit is pending.

13.Therefore, it is only appropriate that the petitioner and the respondents 4 and 5 either enter into the fray and battle it out in the District Munsif Court or take the other option and endeavour to settle the issue through mediation or any of the other alternative dispute resolution methods given under Section 89 of the Code of Civil Procedure. This Court cannot, at this juncture, pass



14.Hence, this Writ Petition is dismissed. Liberty is given to the petitioners to approach the Court in manner known to law, if at all any adverse order passed by any authority has to be examined or re-examined or re-visited. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1.The District Collector,
Madurai District.

2.The Assistant Director/Member Secretary (I/C),
District Local Planning Authority,
Office of Town and Country Planning Officer,
Madurai District.

+1 CC to M/s.V.VIJAYASETHUPATHY, Advocate (SR-39342[F] dated 17/12/2021)

+1 CC to M/s.D.GHANDI RAJ, Advocate (SR-39618[F] dated 20/12/2021)

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