



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.07.2021

CORAM :

THE HONOURABLE MRS.JUSTICE J. NISHA BANU

W.P. (MD) .No.12906 of 2021

M.Kavitha

...Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by its Principal Secretary,
Housing and Urban Development Department,
Fort St. George,
Chennai.

2.The Member Secretary,
Madurai Town and Country Planning Authority,
Corporation Building Complex,
3rd Floor, Anna Maligai,
Madurai.

... Respondents

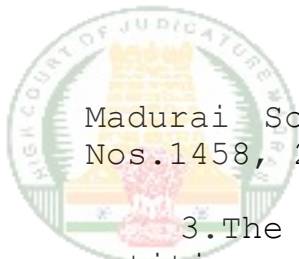
Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st respondent to pass orders on the exemption application, dated 31.12.2020, under Rule 72 of the Tamil Nadu Combined Development and Building Rules 2019, preferred in respect of the Petitioners property in RS No.161/15, 161/21F, 161/20G, 161/11A, 161/11B, 160/4A, 160/4B and 161/17J, Anupanadi Village, Madurai South Taluk, Madurai, within the time that maybe stipulated by this Court.

For Petitioner : Mr.M.Mahaboob Athiff
For Respondents : Mr.M.Lingadurai
Government Advocate

ORDER

This writ petition has been filed to issue a Writ of Mandamus, directing the 1st respondent to pass orders on the exemption application, dated 31.12.2020, under Rule 72 of the Tamil Nadu Combined Development and Building Rules 2019, preferred in respect of the Petitioners property in RS No.161/15, 161/21F, 161/20G, 161/11A, 161/11B, 160/4A, 160/4B and 161/17J, Anupanadi Village, Madurai South Taluk, Madurai, within the time that maybe stipulated by this Court.

2.The case of the petitioner is that the petitioner, P.vijayalakshmi, S.Maheswari and Shanmugavel are the joint owners of a land to an extent of 1.30 acres in RS No.161/15, 161/21F, 161/20G, 161/11A, 161/11B, 160/4A, 160/4B and 161/17J, Anupanadi Village,



Madurai South Taluk, Madurai. Patta was also issued in Patta Nos.1458, 2770 and 2772 in favour of them by competent authorities.

3.The learned counsel for the petitioner would submit that the petitioner and other co-owners had become owners of the property since the years of purchase in 1998, 2001 and 2014 respectively. Now the petitioner and his co-owners intend to develop the property by developing a layout as the adjoining lands were developed and constructions have been effected after obtaining appropriate planning permission from the planning authorities under the Tamil Nadu Town and Country Planning Act and the local body.

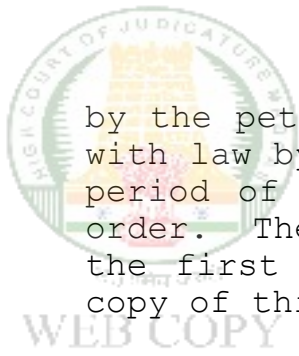
4.The learned counsel for the petitioner submitted that as per the Tamil Nadu Combined Developing and Building Rules 2019, the layout is required under Rule 47 to have a minimum public street or road of a width of 7.2 meters (23.622 feet). But prior to the said Rules the required width of the road/passage was 20 feet only (6.096 meters). As per the said requirements, the development of all adjacent lands has been undertaken and constructions have been made only leaving 20 feet access road, which had been approved by the competent authorities. The learned counsel further submitted that it is to be noted that the rule making authority having regard to the practical difficulties/anomalies that are likely to emerge in view of such bona fide claims, such as in the present case, approvals was granted as the requirement was only 20 feet prior to the 2019 Rules. According to the counsel for the petitioner, the Rules also provided for a window of exemption.

5.The learned counsel for the petitioner would further submit that Rule 72 of the Tamil Nadu Combined Development and Building Rules 2019, contemplate that the Government is empowered by a notification to be issued in the Tamil Nadu Government Gazette on an application of any person to exempt such development from the operation of the rules or any particular rule. In this regard the petitioner has filed an application dated 30.12.2020 along with requisite documents to the respondents. Since the same has not been acted upon, the present writ petition has been filed before this Court, seeking for appropriate directions.

6.Heard Mr.M.Mahaboob Athiff, learned counsel for the petitioner and Mr.M.Lingadurai, learned Government Advocate appearing for the respondents.

7.The learned Government Advocate appearing for the respondents would submit that the representation given by the petitioner will be considered by the first respondent on its own merits within a time stipulated by this Court.

8.Considering the facts and circumstances of the case and the limited relief sought for in this writ petition, there shall be a <https://hccservicescourts.gov.in/services> first respondent to consider the application made



by the petitioner on 30.12.2020 on its own merits and in accordance with law by giving them a personal hearing and pass orders, within a period of eight weeks from the date of receipt of a copy of this order. The petitioner is directed to make a fresh representation to the first respondent along with all relevant documents and also a copy of this order.

9.This writ petition is disposed of with the above directions.
No costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

TM/MPK

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

- 1.The Principal Secretary, Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St. George,
Chennai.
- 2.The Member Secretary,
Madurai Town and Country Planning Authority,
Corporation Building Complex,
3rd Floor, Anna Maligai,
Madurai.

+1 CC to M/s.SPL GP (SR-24729[F] dated 30/07/2021)

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ES (CO)

LR (09.08.2021) 3P 4C