



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.10.2021

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD)No.17355 of 2021

and

W.M.P(MD) .No.14234 of 2021

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M/s.Akshaya Pvt. Ltd.,
Represented by J.Ravi.

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Housing and Urban Development Department,
Fort St.George,
Chennai-600 009.

2.The Member Secretary,
Tiruchirapalli Local Planning Authority,
Tiruchirapalli.

3.The Commissioner,
Tiruchirapalli Corporation,
Tiruchirapalli.

4.The Assistant Commissioner,
K-Abishekapuram Zone,
Tiruchirapalli City Corporation,
Puttur, Tiruchirapalli.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to notice dated 19.07.2021 in O.Mu.No.153/2021/E1(K.AP) of the fourth respondent herein and quash the same and consequently direct the fourth respondent to accept and consider the application by petitioner for water and sewerage connection in Block A-48 apartments in the residential project TRICHY RICH in T.S.Nos.62, 63, 64/1 and 64/3, Block No.1, Ward M, Old Ward-D, Salai Road, K.Abishekapuram Zone, Tiruchirapalli.

For Petitioner : M/s.AL.Ganthimathi
For R-1 and R-2 : Mr.P.Subbaraj,
Counsel for State.
For R-3 and R-4 : Mr.R.Baskaran,
Standing Counsel.

ORDER

The petitioner assails a communication dated 19.07.2021 from the fourth respondent by which the petitioner's application for



water connections in respect of forty eight (48) apartments in the 'A' Block of a multi-storied building was rejected.

2. The petitioner states that it is a developer of a multi-storied apartment complex consisting of two blocks. The construction as regards Block 'A' is said to be complete, whereas the construction of Block 'B' is said to be ongoing. Block 'A' consists of forty eight (48) units and the petitioner states that there are forty (40) residents living in Block 'A'. The permanent EB connection has been obtained and property tax assessments for the forty eight (48) units have been completed.

3. There appears to be a dispute with regard to the demand for payment of fees for extension of the building permit in respect of the above mentioned apartment complex. The said dispute is the subject matter of W.P.(MD).No.9425 of 2021. The petitioner submitted an application dated 29.03.2021 seeking metro water connections. Upon receipt thereof, the fourth respondent issued the impugned order which is assailed herein.

4. The petitioner draws the attention of the Court to the impugned order and points out that the only reason cited for rejecting the application of the petitioner is the pending litigation. In fact, the petitioner points out that the fourth respondent has stated that the application would be considered only if the pending litigation is withdrawn.

5. Mr.P.Subbaraj, learned counsel for the State, accepts notice on behalf of respondents 1 and 2 and Mr.R.Baskaran, learned Standing Counsel, appears on behalf of the third and fourth respondents. Mr.R.Baskaran submits that the petitioner has failed to pay the fees in relation to the extension of the building permit. He also points out that all the relevant facts relating thereto have not been placed before this Court. Without prejudice, he submits that the fourth respondent may be directed to re-consider the matter without reference to the pending litigation.

6. Upon perusal of the impugned order, it is evident that the only reason cited therein is the pending litigation, and the petitioner has been called upon to withdraw such litigation as a condition precedent for the consideration of the application. The said order is *ex facie* unsustainable inasmuch as a statutory authority cannot impose such condition precedent. Consequently, the impugned order is quashed. As a corollary, the matter is remitted to the fourth respondent for re-consideration. The fourth respondent herein is directed to re-consider the matter without reference to the pending litigation and dispose of such application within a period of thirty (30) days from the date of receipt of a copy of this order.

<https://hcservices.ecourts.gov.in/hcservices/> Accordingly, W.P.(MD).No.17355 of 2021 is disposed of on



these terms without any order as to costs. Consequently, W.M.P. (MD). No.14234 of 2021 stands closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

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/ /2021

Sub Assistant Registrar(CS)

tsg/LM

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 Secretary to Government,
State of Tamil Nadu,
Housing and Urban Development Department,
Fort St.George,
Chennai-600 009.
- 2.The Member Secretary,
Tiruchirapalli Local Planning Authority,
Tiruchirapalli.
- 3.The Commissioner,
Tiruchirapalli Corporation,
Tiruchirapalli.
- 4.The Assistant Commissioner,
K-Abishekapuram Zone,
Tiruchirapalli City Corporation,
Puttur, Tiruchirapalli.

+1 CC to M/s.SPL.GP (SR-30999[F] dated 04/10/2021)

+1 CC to M/s.AL.GANTHIMATHI, Advocate (SR-30847[F] dated 01/10/2021)

+1 CC to M/s.R.BASKARAN, Advocate (SR-30899[F] dated 01/10/2021)

W.P (MD) No.17355 of 2021
01.10.2021

SRR(CO)