



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.02.2021

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WP (MD) No.9064 of 2016

and

WMP (MD) No.7201 of 2016

WEB COPY

Ettieswaran

... Petitioner

Vs.

The Commissioner,
Palani Municipality,
Dindigul District.

... Respondent

Prayer : Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to impugned order of the respondent made by his proceedings in Na.Ka.No.3582/2016/F1 dated 20.04.2016 and quash the same as illegal, consequently to direct the respondent to grant planning and building permission for the application of the petitioner in building application No.240/2015/F1 dated 31.07.2015 for the house site situated in T.S.No.5/2B, Block No.49, Ward No.4 at Palani Town to an extent of 2345 sq. feet.

For Petitioner : Mr.D.Venkatesh
For Respondents : Mr.G.Arjunan
Government Advocate

ORDER

Heard the learned counsel for the petitioner and the learned standing counsel for the respondent Municipality.

2.The petitioner vide sale deed dated 11.10.2010 purchased 2345 sq.feet of land from his vendors. The plot purchased by the petitioner formed part of a large extent of land measuring 10117 sq.feet. The petitioner applied to the respondent seeking permission to put up a building. The petitioner's request was rejected by the respondent vide communication dated 20.04.2016 on the ground that a 23 feet road has been laid across the property measuring 10117 sq.feet and to do so, approval must have been obtained from the Director of Town and Country Planning, Chennai. Challenging the same, this writ petition came to be filed.

3.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and wanted this Court to quash the impugned communication and allow this writ petition. The respondent has filed a detailed counter affidavit and the learned standing counsel reiterated all



the contentions set out therein.

4. The learned standing counsel initially contended that what was purchased by the petitioner was an unapproved plot. He would also point out that the plot measuring more than ten thousand square feet has been parcelled into three and a road measuring 23 feet width has already been laid across the same. To do such a development activities, obviously, the approval of the Director of Town and Country Planning is absolutely necessary. He, therefore, wanted to sustain the impugned order.

5. I carefully considered the rival contentions and went through the materials on record. The question as to whether the petitioner purchased the land in question as an unapproved land will be considered first. The learned counsel for the petitioner draws my attention to the proceedings dated 19.06.2009 issued by the Commissioner, Palani Municipality. It is seen therefrom that he had regularised the entire extent of land measuring 10117 sq.ft. The petitioner had purchased only 2345 sq.ft of land in the said cite. Thus, when the petitioner purchased a plot of land it was an approved plot. In the face of the proceedings dated 19.06.2009 issued by the Commissioner, Palani Municipality, it is open to the petitioner to contend that he has not purchased an unapproved plot.

6. When the petitioner himself had purchased only 2345 sq.ft of land, he could not have created a 23 feet road. It was obviously created by the petitioner's vendor. For the act committed by the petitioner's vendor, the petitioner cannot be blamed. The petitioner also pointed out that he purchased only an approved plot. Therefore, for putting up the construction in such an approved plot, the respondent ought to have provided the approval in question. Instead, the respondent has obstructed the petitioner from putting up the building. The matter is remitted to the file of the respondent to pass orders afresh on merits and in accordance with law on the petitioner's application seeking building plan approval. Such an order will be passed within a period of eight weeks from the date of receipt of copy of this order. The writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

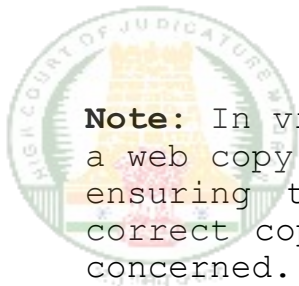
Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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.

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To:

The Commissioner,
Palani Municipality,
Dindigul District.

+1 CC to M/s.D.VENKATRSH, Advocate (SR-4434[F] dated 11/02/2021)

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NA (CO)
KB (05.03.2021) 3P 3C