



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2022

C O R A M

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THE HON'BLE MS.JUSTICE V.M.VELUMANI

W.P.No.6042 of 2021
and W.M.P.No.6688 of 2021

Madras City Co-operative Building Society Ltd.,
No.G-523, Rep. herein by its Secretary,
Mrs.G.Tamizhselvi,
No.101, Vellala Street, Pursawalkkam,
Chennai - 600 007.

...Petitioner

Vs

- 1.The President/Executive Officer,
Banavedu Thottam Panchayat,
Poonamallee Panchayat Union,
Tiruvallur District.
- 2.The Commissioner,
Poonamallee Panchayat Union,
Poonamallee,
Tiruvallur District.
- 3.The Block Development Officer,
Block Development Office,
Poonamallee Taluk,
Tiruvallur District.
- 4.The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Salai,
Egmore,
Chennai - 600 008.
- 5.M/s.SPE Homes Private Limited,
Rep. by its Directors, Mr.P.Lokesh,
No.70, Raja Agraharam Street,
Poonamallee,
Chennai - 600 056.

... Respondents

Prayer Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, to call for the records in the impugned Notice dated 12.02.2021 in Na.Ka.No.6/2020/21 on the file of the 1st respondent and quash the same.



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For Petitioner : Mr.N.Ramakrishnan
for Waraon and Sai Rams

For R1 & R3 : Mr.K.Magesh

For R2 : Mr.R.Kumaravel
Additional Government Pleader

For R4 : Ms.P.Veena Suresh [CMDA]

For R5 : Mr.Mabel Celestina Thomas

ORDER

The petitioner has come out with the present Writ Petition challenging the impugned Notice dated 12.02.2021 in Na.Ka.No.6/2020/21 on the file of the 1st respondent and to quash the same.

2.The petitioner is the Co-operative Building Society. They purchased lands in and around Chennai and developed the same into housing sites through developers like 5th respondent. The petitioner purchased 7.99 ½ acres of lands in Pidarithangal Village, Poonamallee Taluk, Tiruvallur District, for forming layout consisting of house sites. The petitioner entered into an agreement with the 5th respondent for the formation of layout and for the development of the lands purchased in the said village. A layout plan was prepared with necessary roads and sites for common purpose. The layout plan was approved by the 4th respondent vide APU No.L1/2020/000072 dated 28.05.2020. The approval was sent to respondents 1 and 2, who granted approval for the layout. The petitioner gifted the roads to the 1st respondent Panchayat. While so, based on the false complaint dated 07.12.2020 and 17.12.2020, given by R.Vivekanandan S/o.Ranganathan and S.Damodharan, S/o.Srinivasan respectively, to the 1st respondent alleging that there are some deficiencies in the development of the layout of "SPE Metro City", the 2nd respondent ordered enquiry, but, without serving notice of enquiry on the petitioner or the 5th respondent or without hearing the petitioner and the 5th respondent, held that the conditions of the approval were violated. The 1st respondent also informed the petitioner about certain defects. The petitioner rectified the defects pointed out by the 1st respondent. In spite of the same, the 1st respondent by the impugned order, temporarily suspended the final approval given by the 1st respondent, on the ground that the petitioner has violated Condition No.15 imposed by the 4th respondent - Chennai Metropolitan Development Authority and directed the petitioner



to remove the building put up without permission and disconnect the unauthorised electricity connection. The 1st respondent further instructed the petitioner to rectify all the defects pointed out and comply with the conditions imposed by the 4th respondent and only thereafter, the request of the petitioner would be considered. Till such time, the petitioner should not sell the plots to any third parties. Challenging the said order, the petitioner has come out with the present Writ Petition.

3.The learned counsel appearing for the petitioner submitted that there is no Condition No.15 in the approval given by the 4th respondent. The 4th respondent has imposed only nine conditions and the petitioner has complied with all such conditions. The learned counsel appearing for the petitioner further submitted that all the conditions imposed by the respondents 1 and 2 have also been complied with and the impugned order is illegal and passed only because one of the Director of 5th respondent filed suit against the 1st respondent and prayed for allowing the Writ Petition.

4.The 1st respondent filed counter affidavit along with the vacate stay petition. Mr.K.Magesh, learned counsel appearing for the 1st respondent submitted that the petitioner has violated Condition No.15 imposed by the 2nd respondent and by mistake, it has been mentioned as Condition No.15 imposed by the 4th respondent. The learned counsel appearing for the 1st respondent also referred to violations committed by the petitioner, in the counter affidavit. In the impugned order itself, the 1st respondent has stated that if the defects are rectified and all the amenities directed by the 4th respondent are provided, the request of the petitioner for cancelling the impugned order will be considered. The learned counsel appearing for the 1st respondent further submitted that the 1st respondent granted approval only after the filing of the suit by the Director of 5th respondent and allegations that due to the filing of the suit by one of the Director of the 5th respondent, the 1st respondent has passed the impugned order, is not correct and prayed for dismissal of the Writ Petition. He also referred the photographs filed in the typed set of papers.

5.Heard the learned counsel appearing for the petitioner, learned counsel appearing for the respondents 1 and 3, learned Additional Government Pleader appearing for the 2nd respondent as well as learned counsel appearing for the respondents 4 and 5 and perused the materials on record.

6.From the materials on record, it is seen that the layout was approved by the 4th respondent imposing nine conditions. According to the petitioner and the 5th respondent, all the



conditions imposed by the respondents 4 and 2 were complied with. The impugned order is passed without application of mind as the 1st respondent has stated that the petitioner has violated Condition No.15 imposed by the 4th respondent. In the counter affidavit, the 1st respondent has clarified that, by mistake the 1st respondent has stated that the petitioner has violated Condition No.15 of the 4th respondent instead of the 2nd respondent. The 1st respondent also in the typed set of papers enclosed photographs to show that roads are damaged and there is no provision for street light. On the other hand, the case of the petitioner is that all the defects pointed by the 1st respondent has been rectified and the building put up by the petitioner is only a temporary model villa and the construction made by the petitioner is only as per the approval.

7.Considering the above rival submissions, it is seen that certain allegations made against the 1st respondent of bias. In view of the same, the 3rd respondent is directed to hold an enquiry giving notice to the petitioner, the respondents 1 and 5 and make a spot inspection to find out whether all the defects pointed out by the respondents 1 and 4 are rectified or not. Based on the report of the 3rd respondent, the 1st respondent is directed to pass orders on merits and in accordance with law, whether to cancel the impugned order or not.

8.With the above directions, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(co)

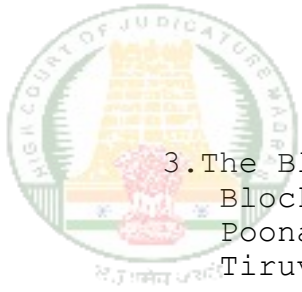
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Sub Assistant Registrar

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To:

1.The President/Executive Officer,
Banavedu Thottam Panchayat,
Poonamallee Panchayat Union,
Tiruvllur District.

2.The Commissioner,
Poonamallee Panchayat Union,
Poonamallee,
Tiruvallur District.



3.The Block Development Officer,
Block Development Office,
Poonamallee Taluk,
Tiruvallur District.

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4.The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Salai,
Egmore, Chennai - 600 008.

+2 ccs to Mr.Waraon and Sai Rams, Advocate Sr.NO.23593

+1 cc to Mr.Ms.P.Veena Suresh, Advocate Sr.NO.23795

+1 cc to Mr.K.Magesh , Advocate Sr.NO. 23498

W.P.No.6042 of 2021

PL(CO)

A.SK(27/04/2022)