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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2022

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.9594 of 2022

&

WMP.No.9328 of 2022

P.AMI Properties
Rep. by its Partner
Abdul Rahman,
D.No.83,Royal Nagar,
Saramedu Main Road,
Karumbakadai, Coimbatore -601 008

...Petitioner

Vs.

1. The District Collector
Coimbatore District,
Coimbatore-641 018.
2. The Member Secretary-Joint
Director Coimbatore Local Planning Authority,
Office of Local Planning Authority,
Corporation Commercial Complex
Dr.Nanjappa Road Coimbatore-641
3. The District Registrar
Coimbatore Joint-I Sub Registrar Office,
Coimbatore-641 018.
4. The President
Perur Chettipalayam Panchayat
Perur Chettipalayam Village,
Perur Taluk, Coimbatore District-641 010.
5. Kandasamy
6. Vijayalakshmi
7. Saranya

...Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of certiorari calling for the records leading to pass the impugned order of the 2nd respondent dated 12.10.2021 in Na.Ka. 7320/ 2021 Vo.Thi.Ku served on the petitioner only on 02.12.2021 and quash the same.



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For Petitioner : Mrs.Hema Samptah
Senior Counsel for
Mr.C.Jagadish

For Respondents : Mr.C.Jayaprakash [R1 to R3]
Government Advocate
Mr.E.Vijay Anand [R4]
Additional Government Pleader

O R D E R

Mr.C.Jayaprakash, learned Government Advocate accepts notice for the R1 to R3 and Mr.E.Vijay Anand, learned counsel accepts notice for R4. They are armed with instructions to proceed with the matter finally even at this juncture. In view of the order that is proposed to be passed, no notice is thought necessary to private respondents/R5 to R7 at this juncture. Hence, by consent of learned counsel for the petitioner and learned counsel for R1 to R4, this Writ Petition is disposed finally even at the stage of admission.

2. The petitioner is a firm engaged in the development of land admeasuring 3.43 acres in S.No.110/2 Perur Chettipalayam Village. According to the petitioner, the vendor of the aforesaid property had divided the same into various portions, transferring portions of the same to the petitioner as well as to private respondents as well.

3. As regards the portion sold to the petitioner which is at S.No.110/2A, purchased on 18.03.2020, a layout had been developed and sales of the plots have also commenced. According to the petitioner, it has complied with all requisite conditions and obtained prior permissions for proceeding with the development and sale. The approach road at S.No.110/2B as well as internal roads within the layout have been settled in favour of the official respondents under settlement deed dated 06.07.2021. Approval has been granted under proceedings in Na.Ka.No.4879/2020/UTK/UTHIKU dated 28.07.2021 and thus the development of layout was proceeding as scheduled.

4. While this is so, a complaint appears to have been preferred before the official respondents raising certain allegations, into which this Court does not delve in detail, seeing as the same involve determination of disputed facts. Suffice it to state that impugned order dated 02.12.2021 has been passed cancelling the approval for layout originally



granted, based upon the complaint made, as aforesaid .

5. The patent flaw in the impugned proceedings persuading this Court to intervene is that, admittedly, the cancellation of the layout sanction is unilateral and without any opportunity of hearing having been granted to the petitioner prior thereto.

6. In my considered view and Mr. Jayaprakash learned Government Advocate appearing for R1 to R3 and Mr. Vijay Anand, learned counsel appearing for R4 would also agree, it was incumbent upon the authority to have granted an opportunity of hearing to the petitioner as well as supply to the petitioner all materials, based upon which the adverse impugned decision has been thrust upon it.

7. Learned counsel for the respondents would point out that the impugned order is amenable to statutory appeal in terms of Section 54 of the Town and Country Planning Act, 1971. However, insofar as the violation of principles of natural justice is a jurisdictional flaw that vitiates the order and goes to the root of the matter, I am of the view that it would be unnecessary to relegate the petitioner to alternate remedy, in such circumstances.

8. In light of the above, the impugned order is set aside. The respondent will supply all materials including a copy of the complaint based upon which the impugned order has been passed to the petitioner. Thereafter, a notice of hearing will be issued to the petitioner as well as to the private respondents, all parties heard and a speaking order passed, within a period of eight (8) weeks from today.

9. Till the completion of the exercise as aforesaid, status quo, as of today, will be maintained by the petitioner in regard to the alienation of the plots in the layout.

10. This Writ Petition is disposed as above. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

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To

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Coimbatore-641 018.
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Perur Chettipalayam Village,
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+1cc to Mr.C.Jagadish, Advocate, S.R.No.27090

+1cc to the Government Pleader, S.R.No.27689

W.P.No.9594 of 2022 &
WMP.No.9328 of 2022

NRL (CO)
SU (27/05/2022)