



W.P.No.17767, 10076 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.12.2022

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

W.P.No.17767 and 10076 of 2014
and M.P.No.1, 1 of 2014

A.Magesh ... Petitioner in W.P.17767/2014

A.L.Arumugam ... Petitioner in W.P.10076/2014

Vs.

1. The Executive Engineer (Zone-X),
Town Planning Section, Works Department,
Corporation of Chennai, No.117, N.S.K.Salai,
Kodambakkam, Chennai 600 024.

2. The Tamilnadu Housing Board,
rep. by its Chairman, Nandanam,
Chennai 600 035.

3. The Corporation of Chennai,
rep. by its Commissioner, Ripon Building,
Park Town, Chennai 600 003.

4. The Chennai Metropolitan Development Authority,
rep. by its Member Secretary, No.1,
Gandhi Irwin Road, Egmore,
Chennai 600 008.

... Respondents in both writ
petitions

PRAYER in W.P.No.17767 of 2014: Writ petition filed under Article 226 of the Constitution of India, seeking Writ of Mandamus, directing the first, third and fourth respondents to receive, process and consider



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the planning permission application for the proposed construction to be put up at No.103, Nesapakkam Village, Erikarai Street, Bharathi Nagar Main Road, Guindy Mambalam Taluk, Chennai, comprised in Survey No.69/1B, T.S.No.14, Block No.6, without considering any objection from the second respondent so long as the proposed New Construction is in accordance with the prevailing Rules.

PRAYER in W.P.No.10076 of 2014: Writ petition filed under Article 226 of the Constitution of India, seeking Writ of Certiorarified Mandamus, calling for the records of the first respondent dated 15.03.2012 made in No.ZOX.W.D.C.No.T.P.PPA/2933/2012 and to quash the order of the first respondent as illegal and without jurisdiction and consequently, directing the first, third and fourth respondents to receive, process and consider the planning permission application for the proposed construction to be put up at No.103, Nesapakkam Village, Erikarai Street, Bharathi Nagar Main Road, Guindy Mambalam Taluk, Chennai, comprised in Survey No.69/1B, T.S.No.14, Block No.6, without considering any objection from the second respondent so long as the proposed New Construction is in accordance with the prevailing Rules.

In both writ petitions

For Petitioner : Mrs.P.Arunadevi
for Mr.S.Muthuraman
For Respondents : Mrs.P.T.Ramadevi for R1 and R3
Mr.Mrs.C.Shyamala for R2
Mr.Y.Bhuvaneshkumar for R4



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COMMON ORDER

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Both the writ petitions have been filed to quash the impugned order dated 15.03.2012 passed by the first respondent, returning the application for planning permission and to grant planning permission for the proposed construction to be put up at No.103, Nesapakkam Village, Erikarai Street, Bharathi Nagar Main Road, Guindy Mambalam Taluk, Chennai, comprised in Survey No.69/1B, T.S.No.14, Block No.6, without considering any objection from the second respondent so long as the proposed New Construction is in accordance with the prevailing Rules.

2. The facts and circumstances of the case and the issues involved in both the writ petitions are one and the same. Hence, this Court, passes the common order.

3. The petitioner (AL. Arumugam) in W.P.No.10076 of 2012 is father of the petitioner (A.Magesh) in W.P.No.17767 of 2014. The first respondent returned the petitioner's (AL.Arumugam) application for planning permission, vide order dated 15.03.2012, as per the letter received from the Tamil Nadu Housing Board dated 24.02.2012. In the



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above letter dated 24.02, the Board requested the first respondent not to issue any building permission in the lands in S.No.69/1B of Nesappakkam Village.

4. The learned counsel for the petitioners submitted that, already, the petitioner in W.P.No.10076 of 2014, filed a writ petition in W.P.No.28699 of 2014 to declare the land acquisition notification dated 09.05.1975, in respect of Survey No.69/1B of Nesappakkam Village, Chennai, as null and void. He further submitted that, this Court vide order dated 08.01.2015, has allowed the above said writ petition, by declaring land acquisition notification, as null and void and also directing the Housing Board Department to discharge the subject landed property from the acquisition proceedings. Therefore, the first respondent may be directed to grant building permission in the lands in S.No.69/1B of Nesappakkam Village.

5. At this juncture, the learned counsel for the respondents submitted that, as against the order passed by this Court in W.P.No.28699 of 2014, dated 08.01.2015, an Appeal in W.A.No.1131 of 2015 has been filed by the Tamilnadu Housing Board , wherein, a



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Division Bench of this court, vide order dated 25.08.2015, has granted an order of interim stay and the Writ Appeal is pending.

6 The issue of acquisition of lands with regard to S.No.69/1B of Nesappakkam Village, is pending in W.A.No.1131 of 2015 before the Division Bench of this Court. The pending of the Writ Appeal is also not denied by the learned counsel for the petitioners. In such circumstances, no order can be passed in the present writ petitions. Therefore, this Court is of the view that, if the Appellate Court upheld the land acquisition proceedings, the petitioners are not entitled to seek planning permission. At the same time, if the petitioners succeeds in the Writ Appeal, they are entitled to seek planning permission and their application can be processed. As such, keeping the writ petitions pending, will not survive any purpose, whereas liberty can be granted to the petitioners to move appropriate petition, based on the decision to be made in the Writ Appeal.

7. Accordingly, Both the writ petitions are disposed of, granting liberty to the petitioners to move appropriate petition, upon the decision to be made in the W.A.No.1131 of 2015 by Division Bench of



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this Court, if so advised. No costs. Consequently, connected miscellaneous petitions are closed.

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Index: Yes/No
Internet: Yes/No
mst

To

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