



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.4061 of 2022

and W.M.P. (MD) .No.3475 of 2022

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Boominathan

.. Petitioner

Vs

1.The Regional Deputy Director,
Town & Country Planning,
Sivagangai.

2.The Block Development Officer,
Ilaiyangudi Block Development Office,
Sivagangai District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned reply letter of the 1st respondent in Na.Ka.No.2518/2021/CiMa-2, dated 29.01.2022 and quash the same as illegal and consequently, directing the respondents to afford opportunity to hearing the petitioner before passing any order against the layout approval granted by the 1st respondent vide his proceedings in Na.Ka.No.924/2018/CMA-4, dated 06.06.2018 for petitioner's two house sites Nos.23 and 26 to total extent of 2400 square feet situated in S.No.108/1, Subash Nagar - 5, Perumbacheri Village, Ilaiyangudi Taluk, Sivagangai District, in accordance with law.

For Petitioner : Mr.K.Saravanan

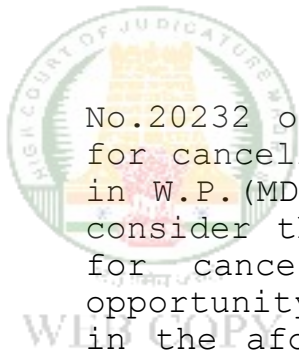
For Respondents : Mr.T.Amjad Khan for R1
Government Advocate

Mr.V.Nirmal Kumar for R2
Government Advocate

ORDER

This writ petition has been filed challenging the reply letter of the first respondent dated 29.01.2022, rejecting the petitioner's request for an opportunity of hearing with regard to the proceedings initiated at the instance of a third party, seeking for cancellation of the approved layout, in which, the petitioner claims to have purchased two plots under a sale deed.

2.According to the petitioner, suppressing the fact that the petitioner and some others have purchased properties in the approved layout, a person by name Velu filed a writ petition in W.P.(MD).



No.20232 of 2021, before the Division Bench of this Court, seeking for cancellation of the approved layout. By order dated 18.11.2021 in W.P.(MD).No.20232 of 2021, the first respondent was directed to consider the representation of Mr.K.Velu, dated 25.06.2021, seeking for cancellation of the approved layout, after affording an opportunity of hearing to Mr.Velu, Mr.A.Kumar, the second respondent in the aforementioned writ petition and others concerned and pass appropriate orders on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of that order. Thereafter, the petitioner by his representation dated 30.12.2021, to the respondents, made his request to afford an opportunity of hearing in the proceedings initiated, pursuant to the directions given by the Division Bench of this Court on 18.11.2021, in W.P.(MD).No.20232 of 2021. The said representation has been rejected by the reply issued by the first respondent. Aggrieved by the same, this writ petition has been filed.

3.Heard Mr.K.Saravanan, learned counsel appearing for the petitioner, Mr.T.Amjad Khan, learned Government Advocate, who accepts notice on behalf of the first respondent and Mr.V.Nirmal Kumar, learned Government Advocate, who accepts notice on behalf of the second respondent.

4.The petitioner claims that he is the owner of two plots in the approved layout. According to him, he got the same by way of a gift settlement deed, dated 26.06.2020, executed by his wife Rajeswari. According to the petitioner, Rajeswari purchased the said two plots under sale deed dated 01.07.2019, registered as document No.287/2019. It is the contention of the petitioner that even before the order dated 18.11.2021, came to be passed by the Division Bench of this Court in W.P.(MD).No.20232 of 2021, the petitioner's wife purchased two plots in the very same layout, which was suppressed by Velu in the aforesaid writ petition.

5.According to the petitioner, only on the ground that sale deeds were not registered, a direction was issued to the first respondent to consider Mr.Velu's representation, seeking for cancellation of the approved layout. However, in the very same order, it is made clear that all the necessary parties will have to be given opportunity of hearing by the first respondent, while considering Mr.Velu's representation, seeking for cancellation of the approved layout. The petitioner after coming to know about the Division Bench's directions, has given a representation dated 30.12.2021, to the official respondents, requesting them to afford a personal hearing to him, which has been rejected under the impugned order, dated 29.01.2022, on the ground that the petitioner will have to approach the appropriate Civil Court to redress his grievance. Having purchased the property prior to the passing of the order dated 18.11.2021, by the Division Bench of this Court in W.P.(MD). No.20232 of 2021, the petitioner ought to have been granted hearing as he is a necessary party.



6.The petitioner claims that his wife had purchased two plots in the approved layout under sale deed, dated 01.07.2019, from whom, he has got the property by way of gift settlement deed, dated 26.06.2020. Any cancellation of the approved layout will be detrimental to the interest of the petitioner. Therefore, the first respondent ought to have afforded a hearing to the petitioner, before considering the representation of Mr.Velu, the petitioner in W.P.(MD).No.20232 of 2021. By total non application of mind, the first respondent has rejected the petitioner's request for a hearing under the impugned reply, dated 29.01.2022.

7.The Division Bench of this Court, by its order, dated 18.11.2021 passed in W.P.(MD).No.20232 of 2021, has also made it clear that an opportunity of hearing must not only be granted to Mr.Velu, the petitioner therein, but also to the second respondent in that writ petition and others concerned and therefore, the petitioner, who is a necessary party as his wife has purchased the plots in the approved layout prior to the order, dated 18.11.2021, passed in W.P.(MD).No.20232 of 2021.

8.Hence, the impugned reply, dated 29.01.2022, has to be quashed and a direction will have to be issued by this Court to the first respondent to afford a fair hearing to the petitioner along with Mr.Velu, the petitioner in W.P.(MD).No.20232 of 2021, while deciding the representation of Mr.Velu, dated 25.06.2021, seeking for cancellation of the approved layout and only, after affording a fair hearing to both of them, final orders will have to be passed by the first respondent.

9.Accordingly, the impugned reply, dated 29.01.2022, is hereby quashed and this Court directs the first respondent to afford a fair hearing to the petitioner and Mr.Velu, the petitioner in W.P.(MD).No.20232 of 2021 and other necessary parties and pass final orders on merits and in accordance with law.

10.Accordingly, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

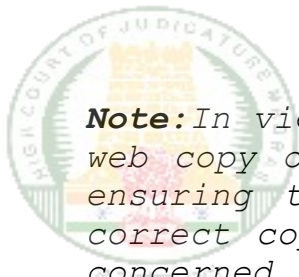
Assistant Registrar (AS)

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Sub Assistant Registrar(CS)

TM



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

1.The Regional Deputy Director,
Town & Country Planning,
Sivagangai.

2.The Block Development Officer,
Ilaiyangudi Block Development Office,
Sivagangai District.

+1 CC to M/s.SPL GP (SR-10593[F] dated 08/03/2022)

W.P. (MD)No.4061 of 2022
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RK(28/03/2022) 4P 4C