



Writ Petition No.998 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.998 of 2023
and
W.M.P.Nos.982, 983 & 990 of 2023

Mohammed Shafi
S/o.Sheik Kadar

...Petitioner

Vs

1.The Director,
Town and Country Planning,
2nd and 3rd Floors, C& E Market Road,
Koyambedu, Chennai - 107.

2.The Deputy Director,
District Town and Country Planning,
No.6, Sannadhi Street,
Subramani Nagar, Suramangalam,
Salem - 636 302.

3.The Commissioner,
Municipal Corporation,
Idappadi Municipality,
Idappadi, Salem District.

4.A.Balasubramanian
S/o.Ayyadurai

... Respondents



Writ Petition No.998 of 2023

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the third respondent in building approval No.046/BL/2022/00030 dated 03.10.2022 and quash the same as illegal which is against Rule 6 of the Tamil Nadu Combined Development and Building Rules, 2019.

For Petitioner : Mr.Guruprasad
for Mr.T.Balaji

For Respondents : Mr.S.Arumugam
Government Advocate [R1 & R2]
No appearance [R3]
Mr.K.Mahendran [R4]

ORDER

The petitioner has assailed the building approval granted by the third respondent in favour of the fourth respondent through proceedings dated 03.10.2022.

2. Heard Mr.Guruprasad, learned counsel appearing for petitioner, Mr.S.Arumugam, learned Government Advocate appearing for respondents 1 and 2 and Mr.K.Mahendran, learned counsel appearing for fourth respondent.



3. This Court has carefully considered the submissions made on either side and perused the materials available on record.

4. The third respondent has granted approval in favour of the fourth respondent based on the parent document dated 07.10.1987 and the subsequent settlement deed dated 09.01.2017. The third respondent also took into consideration the extract from the Town Survey Land Register wherein the patta stands in the name of the fourth respondent.

5. Learned counsel for the petitioner made elaborate submissions to the effect that the fourth respondent does not have any title over the property and that the so-called parent document dated 07.10.1987 is non-est in the eye of law. To substantiate the same, learned counsel drew the attention of this Court to various documents.

6. *Per contra*, learned counsel appearing on behalf of the fourth respondent submitted that the petitioner is attempting to resolve a private civil dispute in this writ petition and already a suit is pending in O.S.No.57 of 2012 on the file of the Sub-Court, Sankari and this dispute can only be



resolved in the pending suit and that there is no scope for this Court to get into this issue in this writ petition.

7. Learned Standing Counsel appearing on behalf of the third respondent submitted that he has withdrawn his appearance on behalf of the third respondent and hence, requested this Court to consider the documents that have been filed by the third respondent.

8. In the considered view of this Court, the building approval was granted in favour of the fourth respondent through proceedings dated 03.10.2022. On coming to know of the same, the petitioner has given a complaint dated 08.12.2022 and this complaint has been addressed to so many persons including the third respondent. On going through the same, it is seen that the petitioner wants action to be initiated on the ground of land grabbing and fabrication of false documents.

9. The petitioner ought to have made a detailed representation to the third respondent with all supporting documents and must have given a proper objection before the third respondent. This Court exercising its



jurisdiction under Article 226 of the Constitution of India will not go into the disputed questions of fact. If ultimately the third respondent takes a decision on the objection given by the petitioner, at that point of time, this Court can test the order of the third respondent and see if it suffers from any illegality or infirmity. The petitioner cannot straightaway question the building approval and make this Court to go into the various documents filed by way of typed-set of papers.

10. In the light of the above discussion, it is left open to the petitioner to give his objections to the third respondent along with all relevant documents. The third respondent shall issue notice to the fourth respondent and afford an opportunity to the fourth respondent to place his defence along with all relevant documents. Ultimately, it is left open to the third respondent to deal with the objections on its own merits and in accordance with law and to take a decision. This exercise shall be completed within a period of twelve (12) weeks from the date of receipt of the fresh representation from the petitioner. This Court has not expressed any views on the merits of the case and hence, it is left to the third respondent to deal with the issue independently.



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N.ANAND VENKATESH, J

gm

This Writ Petition is disposed of in the above terms. No costs.

Consequently, connected miscellaneous petitions are closed.

20.06.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
gm

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