



W.P.No.14002 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2023

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THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.14002 of 2018

A.Viswanathan

...Petitioner

Vs.

1. The Government of India,
Rep. by Competent Authority (Tamil Nadu)
and Regional Director (South),
Archaeological Survey of India,
Fort St. George, Chennai - 600 009.

2. The Superintending Archaeologist,
Archaeological Survey of India,
Chennai Circle, Chennai - 600 009.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to consider the application of the petitioner dated 20.01.2015 and grant No Objection Certificate (NOC) to the petitioner to put up construction in S.No.245/1B/3B & S.No.245/1B4, Janakipuram Village, Maduranthakam Taluk, Kancheepuram District, Tamil Nadu.

For Petitioner : Mr.K.S.Viswanathan

For Respondents : Mr.P.G.Santhosh Kumar, SPC



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ORDER

This Writ petition has been filed seeking issuance of a Writ of Mandamus to direct the respondents to consider the petitioner's application dated 20.01.2015 and grant No Objection Certificate (in short 'NOC') in favour of the petitioner to put up construction in the subject land.

2. The case of the petitioner is that he purchased the lands comprised in S.Nos.245/1B/3B & 245/1B4, measuring an extent of 0.22 ha and 0.19.0 ha respectively, situated at Janakipuram Village, Kancheepuram District, vide registered Sale deeds bearing Doc.Nos.1835 & 1836 of 1988 respectively, both dated 13.12.1988 for a valid sale consideration. Pursuant to the said purchase, the petitioner approached the local planning authorities seeking permission to put up construction in the said lands, however, the petitioner was informed that the subject lands are coming under the purview of the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Act 2010 (in short 'AMASR Act, 2010') and there is a prohibition from putting the lands to use without obtaining prior permission from the Archaeological Survey of India. Pursuant to which,



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upon verification, the petitioner came to know that, there is no such notification issued by the Central Government declaring the subject lands as protected site. Further, even from the letter of the 1st respondent dated 21.02.2003 sent to the District Collector, Kanchipuram and other officials, stating that the site in S.Nos.234, 245, 246, 249, 250 etc., are declared as protected site by the ASI, it is evident that the subject lands are over 120 metres from the boundary of the above said protected site. While so, refusing to issue NOC in favour of the petitioner for putting up construction in the subject lands is not sustainable. Therefore, the petitioner made an application dated 20.01.2015 before the 1st respondent, seeking issuance of NOC in his favour for putting up residential building in the subject lands and enclosed all necessary documents along with the said application. Upon receipt of the said application, though the 1st respondent sent a letter dated 18.07.2016 to the 2nd respondent, directing him to submit a report with regard to issuance of NOC in favour of the petitioner, however, till date, no steps have been initiated by the respondents for issuance of NOC in favour of the petitioner and no final order has been passed on the petitioner's application. Hence, this Writ petition.



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3. Though very many grounds have been raised, learned counsel for the petitioner submitted that, it would suffice, if this Court issues direction to the respondents to consider the petitioner's representation/ application dated 20.01.2015 and grant No Objection Certificate in favour of the petitioner to put up construction in the subject land, as expeditiously as possible.

4. Learned Senior Panel Counsel appearing for the respondents submitted that appropriate orders will be passed on the petitioner's application dated 20.01.2015 within the time stipulated by this Court.

5. In view of the aforesaid submissions, this Court without expressing any opinion on the merits of the case, directs the respondents to consider the petitioner's application dated 20.01.2015 on merits and in accordance with law and pass appropriate orders, within a period of eight weeks from the date of receipt of a copy of this order, after affording an opportunity of personal hearing to the petitioner and aggrieved persons, if any.

6. With the above directions, this Writ petition stands disposed of. No costs.

30.03.2023

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Speaking Order : Yes/ No

Index : Yes/ No

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