



W.P.No.15183 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 08.06.2023**

**CORAM :**

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH**

**Writ Petition No.15183 of 2023**  
**and W.M.P.No.14186 of 2023**

Kamalam

.... Petitioner

-Vs-

1 The Deputy Director  
Town and Country Planning O/o.District Town  
and Country Planning Chennimalai Road  
Erode- 9.

2 S.Sri Pradeep

.... Respondents

Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 1st respondent to consider and pass orders on merits by disposing the written representation made by the Petitioner on 07.04.2023 within a stipulated time as this Honble Court.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.A.M.Ayyadurai  
Government Advocate – for R1  
Mr.D.Balachander – for R2

**ORDER**

This writ petition has been filed for the issuance of a writ of Mandamus directing the 1<sup>st</sup> respondent to consider the representation made by the petitioner on 07.04.2023, wherein the petitioner has requested the 1<sup>st</sup> respondent not to process



the application submitted by the 2<sup>nd</sup> respondent for planning approval to develop the subject property.

2. Heard Mr.C.Prakasam, learned counsel for the petitioner, Mr.A.M.Ayyadurai, learned Government Advocate for the 1<sup>st</sup> respondent and Mr.D.Balachander for the 2<sup>nd</sup> respondent.

3. The main grievance that has been expressed by the learned counsel for the petitioner is that the petitioner is an agreement holder and since the 2<sup>nd</sup> respondent did not execute the sale deed in favour of the petitioner pursuant to the agreement, a suit was filed in O.S.No.888 of 2018 before the Sub-Court, Perundurai seeking for the relief of specific performance. During the pendency of the suit, an interim application was also filed in I.A.No.1 of 2020. This IA was disposed of by an order dated 21.11.2020 and it was made clear in the order that whatever transfers are made by the 2<sup>nd</sup> respondent will be subject to the doctrine of lis pendens. It was contended that in spite of this interim order, the 2<sup>nd</sup> respondent went ahead and submitted an application, and the same is being processed by the 1<sup>st</sup> respondent. Hence the petitioner made a representation to the 1<sup>st</sup> respondent not to process the application and since the same was not considered, the present writ petition has been filed before this Court.

4. It was brought to the notice of this Court at the time of hearing that



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planning approval has been granted by the 1<sup>st</sup> respondent in favour of the 2<sup>nd</sup> respondent through proceedings dated 26.05.2023. In any event, the petitioner is only an agreement holder. The Trial Court has made it clear while passing the interim order that any transfer will be subject to the doctrine of lis pendens. This sufficiently safeguards the interest of the petitioner. Therefore, if the 2<sup>nd</sup> respondent enters into any transaction during the pendency of the suit, he is doing it at his own risk and the same will also be subject to the result of the suit. Hence, no useful purpose will be served in directing the 1<sup>st</sup> respondent to consider the representation made by the petitioner.

4. In the light of the above discussion, this writ petition is disposed of with a direction to the Sub-Court, Perundurai to dispose of the suit pending in O.S.No.88 of 2018 within a period of three months from the date of receipt of a copy of this order. It is left open for the petitioner to work out his remedy in the pending suit. No costs. Consequently, connected miscellaneous petition is closed.

**08.06.2023**

Index : Yes/No  
Neutral Citation : Yes/No  
KST  
To

- 1 The Deputy Director  
Town and Country Planning O/o.District Town  
and Country Planning Chennimalai Road  
Erode- 9.



2. The Sub-Court  
Perundurai.

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**N.ANAND VENKATESH, J.**

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