



W.P.No.34415 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

W.P. No.34415 of 2022
and W.M.P.No.33877 of 2022

M/s.K.P.P. Educational Trust,
Represented by its Secretary, Mr.P.Arun Pandian,
No.50, Salem Main Road,
Kallakurichi District – 606 202.

... Petitioner

Vs.

1. Director,
Directorate of Town and Country Planning,
2nd , 3rd and 4th Floor, E & C Market Road,
Koyambedu, Chennai – 600 107.
2. Assistant Director,
Town and Country Planning Office,
KAV Nagar, Chennai National Highway,
Near AKT School,
Neelamangalam,
Kallakurichi District – 606 202.
3. Assistant Director of Survey and Land Records,
Collectorate, Master Plan Complex,
Villupuram – 605 602.



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4. Tahsildhar,
Porpadakurichi,
Kallakurichi District.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned communication dated 25.03.2021 bearing Na.Ka.No.045/2021/Kamaa of the second respondent and quash clause nos.2 and 3 of the same for being ultra vires the Tamil Nadu combined Development and Building Rules, 2019 and direct the second respondent to grant a building plan approval in favour of the Petitioner Trust to construct a new college in the subject property.

For Petitioner : Mr.N.L.Rajah
Senior Counsel

For Respondents : Mrs.R.Anitha
Special Government Pleader

ORDER

When the matter was taken up for hearing on 24.01.2023, this Court had passed the following interim order;



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“ This Writ Petition has been filed challenging the impugned order passed by the second respondent dated 25.03.2021, on the ground that there is no provision under Rule 37 of the Tamil Nadu Combined Development and Building Rules, 2019 to surrender the road to the local body and that apart there is no provision under the statute to sub-divide one's own property.

2. Mrs.R.Anitha, learned Special Government Pleader appearing for the respondents submitted that if a modified plan is given by the petitioner indicating that 9 meters width will be given for the road, the officials will consider issuing approval for the building plan.

3. Mr.N.L.Rajah, learned senior counsel appearing for the petitioner submitted that already the petitioner has submitted a modified plan on 30.09.2022 to the respondents 1 and 2

4. However, the learned Special Government Pleader appearing for the respondents submitted that the said copy has not been received by them and further submitted that if the petitioner submits a new application with modification indicating drive way as boundary of areas, the said application will be considered.



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5. The learned Special Government Pleader further submitted that the respondents will not insist for sub-division of the property as the property belongs to the petitioner. The above submissions made by the learned Special Government Pleader appearing for the respondents are recorded.

6. For reporting compliance post on 10.02.2023”

2. When the matter is taken up for hearing on 10.02.2023, the learned senior counsel appearing for the petitioner submitted the only grievance of the petitioner is that the respondents are still insisting to surrender 9 meters width shown in the plan.

3. The learned Special Government Pleader appearing for the respondents would submit that the “road” has been defined as any highway, street, service road lane, pathway, alley, stairway, passageway, carriageway, footway, flyover, square, place or bridge over which the public have a right of passage or access or have passage and have access uninterruptedly and therefore, surrender of 9 meters width is required.



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4. This Court is of the view that merely because there is a definition to define a road, it does not mean that the entire road should be handed over. The purpose of road is being used only by the students and other staff members of the college, which is required to be handed over to the local authority, if such interpretation of the respondents are accepted, it would amount to allowing a third party or the public to enter into the college every day.

5. The impugned order mainly demanded the sub-division as well as expansion of the width of the road, and both have been now complied and new plan has also been submitted. According to the petitioner, though they have already submitted the plan, they will also upload the same in the single window.

6. In view of the fact that the requirement has been already complied, the respondents shall process the application and issue the permit, on



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merits, within a period of one month from the date of receipt of a copy of this order.

7. With this observation, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

10.02.2023

Index : Yes/No
Internet: Yes/No
nti

To

1. The Commissioner
Corporation of Chennai,
Ripon Buildings, Park Town,
Chennai – 600 003.
2. The Assistant Revenue Officer,
Land and Buildings
Ripon Buildings, Park Town,
Chennai – 600 003.



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N. SATHISH KUMAR, J.

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