



A.No.6196 of 2023

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S.VAIDYANATHAN,J.

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This application has been filed, seeking permission to construct a dwelling house on the vacant land site bearing Door No.14, Saiva Muthiah Mudali Street, Chennai-600 001, measuring an area of 2046 sq.ft., comprised in R.S.No.2783, morefully described in the schedule.

2. When the matter is taken up for hearing, it is represented by the learned Administrator General and Official Trustee (AG & OT), by referring to the report dated 22.12.2023 filed by him that he has no objection in granting permission to the applicant for construction of a house for the own use of the applicant and at the same time, the applicant must adhere to the following conditions amongst other usual terms of tenancy of agreement:

“1. No sale, mortgage or any other encumbrance be made either on the land or on the proposed construction shall be made. The land or / and proposed construction shall not be sub-let to anyone including blood relatives.

2. The applicant may be directed to deposit 10% of the cost of construction towards guarantee for completing the construction within the stipulated period and the said amount shall carry no interest and the said amount will be repaid at the time of the handing over the possession of the Land and building. This amount shall have nothing to do with advance and caution deposit already paid or to be paid.

3. Plan and building approval shall be obtained in the name of “Nagai Vishalakshi Ammal Trust by AG & OT” and produced to the office of the AG & OT before commencing the construction.

4. Credible proof as to total cost of construction with breakup shall be ordered to be submitted to the office of AG & OT.



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5. The property tax assessment, Electricity connection, Water connection, Sewage connection and other such connection shall be in the name of “Nagai Vishalakshi Ammal Trust by AG & OT”.

6. The Possession of the land and building to be handed over to AG & OT at the end of the lease period. No claim on construction whatsoever in nature will be entertained and it shall be deemed that the building is constructed by the office of AG & OT from the day of its construction being commenced. The tenant once vacates shall have no claim on any part or any portion of the building which is constructed by him.

7. The tenant is bound to maintain the building in good, trim and safe condition as long as he is in possession.

8. If this Hon’ble Court decides to deal with the period of tenancy and the periodical enhancement of rent, the following additional conditions shall be incorporated.

a. The period of tenancy shall be for 10 years with effect from 01.01.2024.

b. There shall be rent revision at 10% on the first day of January every year which includes 2024 also.

c. There shall be no auto renewal after the expiry of 10 year lease period.

d. If the petitioner decides to vacate the dwelling house before completion of the lease period of 10 years, he shall hand over the possession to AG & OT and shall not allow it to be occupied by anyone including blood relative even under permissive possession.

e. The petitioner, if required, shall cause the lease registered in the manner known to law at his cost.”

3. At this juncture, learned counsel for the applicant has submitted that the



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applicant is agreeable for the aforesaid terms and conditions, but, however, the applicant is dissatisfied with the Condition No.2 that requires modification. For the sake of convenience, Condition No.2 alone is extracted hereunder:

“2. The applicant may be directed to deposit 10% of the cost of construction towards guarantee for completing the construction within the stipulated period and the said amount shall carry no interest and **the said amount will be repaid at the time of the handing over the possession of the Land and building.** This amount shall have nothing to do with advance and caution deposit already paid or to be paid.”

4. In reply to the above, learned AG&OT has stated across the bar that the said condition has been specifically stipulated for the reason that in case the building is left in the mid, the office of the AG&OT would be put in a tight corner to carry out further progress.

5. This Court is of the view that the Condition No.2 with regard to return of the amount, viz., 10% of the cost of construction after handing over the possession of the land and building is unfair, as it would cause much hardship to the applicant. Therefore, this Court, while granting permission to the applicant to construct a dwelling house on the vacant land site, modifies the Condition No.2 alone modified as under:

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“2. The applicant may be directed to deposit 10% of the cost of construction towards guarantee for completing the construction within



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the stipulated period and the said amount shall carry no interest and the said amount will be returned ***immediately after completion of the building***. This amount shall have nothing to do with advance and caution deposit already paid or to be paid.”

6. With the slight modification in Condition No.2 as indicated above, this application is ordered accordingly. It is made clear that other conditions imposed by the AG&OT will remain unaltered and needs to be adhered to by the applicant scrupulously.

22.12.2023

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To:

The Administrator General and
Official Trustee of Tamil Nadu,
High Court, Madras.

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