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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.04.2023

CORAM

THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN**

W.P.(MD)No.6046 of 2023

and

W.M.P(MD)No.5693 of 2023

Aandiyappan

... Petitioner

vs.

The Commissioner,
Pudukottai Municipality, Pudukottai.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to forbear the respondent from putting up any construction in T.S.No.9553 of Pudukottai especially in front of the petitioner's site in T.S.No.9580 of Pudukottai.

For Petitioner :Mr.P.Ganapathi Subramanian

For Respondent :Mr.S.Kameswaran



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ORDER

This Writ Petition has been filed in the nature of a Mandamus to forbear the respondent/Commissioner, Pudukottai Municipality from putting up any construction in T.S.No.9553 of Pudukottai in front of the site of the petitioner in T.S.No.9580.

2.Heard Mr.P.Ganapathi Subramanian, learned Counsel for the petitioner and Mr.S.Kameswaran, learned Counsel for the respondent.

3.In the affidavit filed in support of the Writ Petition, it had been stated that the property in T.S.No.9580 (Old T.S.No.6084/1M48) measuring 1344 sq.ft., had been purchased by the petitioner from the erstwhile owner, Vellaisamy by a registered sale deed, dated 01.06.1987. It had been stated that the house was in a dilapidated condition. The petitioner was not able to renovate the same. The access to the site was on the west side by a road which runs north to south in T.S.No.9553. It had been stated that on 09.03.2023, a few persons came to dig pits and this was informed to the petitioner herein. It was stated that it was so



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done to put up a Ration Shop in front of the site of the petitioner herein.

4.Claiming that if it so done, the width of the road to access the site of the petitioner would be drastically reduced and thereby, not only the market value of the petitioner' site would be reduced but that even if the petitioner wants to put up a construction later, he may not be able to transport materials through lorry and other heavy duty vehicles, the Writ Petition has been filed seeking consideration of a request made by the petitioner not to put up such Ration Shop right in front of the site of the petitioner herein.

5.This Court on hearing the learned Counsel for the petitioner, had appointed two Advocate Commissioners, Mr.U.Madhana Gopalan and Mr.R.Rajesh, to assist the Court as Officers of the Court to visit the place and to give a fact finding report. They were also given authority to take the assistance of the Surveyor of the jurisdictional Tahsildar Office to measure the place if required and then to submit a report.

6.A report has been submitted by both the learned Advocate



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Commissioners. This Court places its deep appreciation for the efforts taken by both the learned Advocate Commissioners. This report was forwarded to the learned Standing Counsel for the respondent.

7. In the report, which is quiet comprehensive in nature, they had stated that as a fact, the respondent was actually in the process of putting up a construction in front of the house of the petitioner herein in T.S.No. 9553. T.S.No.9553 is actually classified as “road”. It is also stated that there is already an existing Anganwadi in the said T.S.No.9553.

8. That fact would not give the respondent authority to put any construction obstructing the peaceful ingress and egress to the owners of the sites/plots/houses in the adjacent road. They must also keep in mind their needs and necessity.

9. The Advocate Commissioners were also tasked to determine whether any alternative place could be found out for putting up the Ration Shop. Two such places were actually identified by the learned Advocate Commissioners.



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10. However, the learned Standing Counsel for the respondent stated that the said two places are not suitable, but at the same time, stated that there has been a slight re-alignment on the plan, which would indicate that the frontage of the petitioner site would have a width of 25 feet road running from north to south. It was stated that it would be more than sufficient for any vehicle to travel to the petitioner's site and the ingress and egress to the petitioner's site would certainly not be affected.

11. The other aspect, which was pointed out by the learned Counsel for the petitioner is that there are nearly about 25,000 ration card holders there and if the ration card holders come to purchase the ration materials, there is always a possibility of customers spilling over the road and blocking the place.

12. The learned Standing Counsel for the respondent stated that sufficient provisions would be made without affecting the 25 feet road and on the other side, a small corridor additionally would be build and the customers, who come to access the Ration Shop would have a



comfortable place to rest, to sit or to stand without obstructing the general flow of traffic.

13. These arrangements should come into effect and should be to satisfaction of the petitioner herein. I am confident that the respondent keep up with their commitment to ensure that

(1) there is a 25 width of road running from north to south;

(2) the customers of the Ration Shop do not flow over to the place of the petitioner and obstruct traffic; and

(3) a small corridor on the other side of the Ration Shop for the customers as a convenient place to wait, when they come to purchase the ration materials.

14. With these directions in place, let the ration shop be constructed. No further directions are required in this Writ Petition.



WEB COPY 15.The Writ Petition stands disposed of. No costs. Consequently,
connected miscellaneous petition is closed.

Index :Yes / No
Internet :Yes
NCC :Yes/No

03.04.2023

cmr



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C.V.KARTHIKEYAN, J.

cmr

Order made in
W.P.(MD)No.6046 of 2023

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