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W.P.(MD) No.10166 of 2020

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 03.10.2023**

**CORAM:**

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM  
and  
THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN**

**W.P.(MD) No.10166 of 2020  
and  
W.M.P.(MD) Nos.9048 & 9049 of 2023**

Sathya Mahendran

... Petitioner

-VS-

- 1.The Principal Secretary to Government  
Housing and Urban Development Department  
Fort St.George, Chennai-9
- 2.The Director of Town and  
Country Planning  
No.807, Anna Salai  
Chennai-2
- 3.The Deputy Director of Town and  
Country Planning  
No.4, Hakkiam Ajmalkhan Road  
Chinnachokkikulam  
Madurai-2



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4.The Sub Registrar  
Thamaraipatti Sub Registrar Office  
Chittampatti, Madurai East Taluk  
Madurai District

5.S.Ragu

... Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari to call for the records pertaining to G.O.Ms.No.100, Housing and Urban Development Department, dated 01.07.2019, passed by the first respondent and the consequential order of the third respondent in Na.Ka.No.11270/2018/MaMa-4, dated 13.07.2020 and quash the same.

For Petitioner : Mr.P.Mahendran  
for Ms.S.Sangeetha

For Respondents : Mr.N.Satheesh Kumar  
Additional Government Pleader for R1 to R4  
No appearance for R5

### **ORDER**

**[Order of the Court was made by V.LAKSHMINARAYANAN, J.]**

This is a writ petition in apprehension of an action, which may or may not take place.



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**2.** The petitioner challenges the amendment made to Rule 7(g)(ii) of the Tamil Nadu Regularisation of Unapproved Layouts and Plots Rules, 2017 (for brevity, “2017 Regulation”). It is the case of the petitioner that she is the President of Mangulam Village Panchayat, Madurai East Taluk, Madurai District. Referring to the Tamil Nadu Panchayats Building Rules, 1997 (for brevity, “the Building Rules”), the petitioner alleges that the 2017 Regulation runs in contravention of the Building Rules. The gist of the amendment is that a deed of transfer for areas earmarked as “open space reservation” in unapproved layouts should be executed in favour of the competent authority defined under the regulations. As per the 2017 Regulation, the competent authority, in case of village panchayat, is the Block Development Officer.

**3.** Learned counsel for the petitioner mainly contended that all the documents relating to clearance of title are available only with the Town Planning Authority under the 2017 Regulation. Yet, the Town Planning Authority calls upon the Panchayat President to verify the title deeds and therefore, in case of any error, misrepresentation or violation, the Panchayat President will be held responsible for the same.



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**4.** We find that the above plea is entirely misplaced. The 2017 Regulation came into force, by virtue of the powers conferred with the Government under Section 122 read with Section 113 of the Tamil Nadu Town and Country Planning Act, 1971, as a one time measure for the purpose of approving / regularizing the unapproved layouts. This applies to unapproved layouts where plots were registered before 20.10.2016.

**5.** The constitutional validity of any Act or Rules or Regulations can be challenged, only if there is any violation of fundamental rights or if it is contrary or in excess of the parent legislation. Both these grounds do not exist in the present case.

**6.** The Building Rules operate on a different plane and it speak about obtaining prior approval for developing a property. However, the 2017 Regulation deals with the properties, which have been developed without obtaining such prior approval. Therefore, the question of challenging the amendment made to Rule 7(g)(ii) of the 2017 Regulation as being in conflict with the Building Rules does not arise.



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**7.** Accordingly, the writ petition fails and it is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

**[S.M.S., J.]**

**[V.L.N., J.]**

**03.10.2023**

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

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To:

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