



W.P.(MD)No.14045 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.04.2023

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD)No.14045 of 2021 &
W.M.P.(MD)No.11033 of 2021

C.Periyasamy Pandian

... Petitioner

Vs.

1.The Director of Town and Country Planning,
Office of the Director of Town and Country Planning,
Koyambedu, Chennai - 600 107.

2.The Deputy Director of Town and Country Planning,
Office of the District Town and Country Planning,
No.51, Melaratha Veedi, Tuticorin-2.

3.The Commissioner,
Kovilpatti Municipality,
Kovilpatti.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the records relating to the impugned proceedings of the second respondent in Na.Ka.No. 1784/2020 துரா.மா.அ dated 06.11.2020 and consequential notice issued by the third respondent in Na.Ka.No.3144/2020/F1 dated 23.11.2020 and



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quash the same and direct the respondents 2 and 3 to issue planning permission to the petitioner for the site situated in No.82/10, Ward B, Block No.12, Kovilpatti Municipality, Kovilpatti pursuant to the application dated 03.06.2020 without insisting any gift deed for widening of the road.

For Petitioner : Mr.M.Muthappan

For Respondents : Mr.J.John Rajadurai,
Government Advocate for R1 & R2

Mr.P.Srinivas for R3

ORDER

The writ petition is filed for issue of a writ of certiorarified mandamus to quash the proceedings of the second respondent in Na.Ka.No.1784/2020 துரா.மா.அ dated 06.11.2020 and notice issued by the third respondent in Na.Ka.No.3144/2020/F1 dated 23.11.2020 and direct the respondents 2 and 3 to issue building plan permission to the petitioner's property based on the application dated 03.06.2020, without insisting upon the production of the gift deed.



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2. It is the case of the petitioner that he had acquired an extent of over 69 cents in T.S.No.82/10, Ward B, Block No.12, Manthithoppu road, Kovilpatti, Tuticorin District under a partition deed dated 03.12.2012 entered into between him and his brother's legal heirs. Thereafter, he has submitted a building plan permission to construct shops in the said land vide his application dated 03.06.2020. The total area of the land is 2573.3 square metres and out of this extent, the petitioner intends to construct shops only in the ground floor upon an extent of 1243.20 square metres (nearly 14000 sq. ft.). The petitioner has left sufficient space of more than 45 feet from the road. He has also provided car parking as provided under the Tamil Nadu Combined Development and Building Rules, 2019. The property is situate at Manthithoppu road, which is only a Village road. Width of this road varies between 18 feet to 30 feet at various places. In the front of the petitioner's property, the width is about 42 feet. After scrutinizing the petitioner's application, the second respondent was satisfied in all respects. However, by their proceedings dated 06.11.2020, they had informed the petitioner that there was a proposal for extension of the



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road in front of the petitioner's site and therefore, he had to execute a gift deed gifting 10 and 1/2 feet to the Municipality. The petitioner pursuant to this notice gave an undertaking to the Municipality, the third respondent herein that he was willing to gift the land as and when the road is proposed to be widened. This undertaking was forwarded by the third respondent to the second respondent. However, no steps had been taken in this regard. The petitioner would submit that the proposed road remains only at a proposal stage and no steps whatsoever has been taken to give effect to the same. Therefore, insistence of the second respondent to the petitioner to execute a gift deed is very onerous since that is the only ground on which the respondents were not processing the approval on his plan. Therefore, the writ petition.

3. The learned counsel appearing for the petitioner would submit that already a letter of undertaking has been given by the petitioner that as and when the road is going to be laid, the petitioner is ready and willing to execute a gift deed in favour of the third respondent.



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4. The above fact is fairly conceded by the respondents.

5. Heard the learned counsels on either side.

6. Considering the fact that the formation of the road continues to remain only in the proposal stage, the insistence of the respondents for gift deed is misconceived since the petitioner has already given an undertaking that as and when the road is proposed to be laid, he is ready and willing to execute the gift deed. It is well open to the respondents to call upon the petitioner to comply with the undertaking given by him, when the road is proposed to be laid. Therefore, holding up of the approval for this reason is erroneous and consequently, the writ petition is allowed. The impugned proceedings of the second respondent in Na.Ka.No.1784/2020 துரா.மா.அ. dated 06.11.2020 and consequential notice issued by the third respondent in Na.Ka.No.3144/2020/F1 dated 23.11.2020 are hereby quashed.



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7. The undertaking given by the petitioner to the third respondent has already been forwarded to the second respondent. The said undertaking shall be taken on file immediately and necessary approval to be granted forthwith if all the parameters are complied with. On such approval being granted, the third respondent shall approve the building plan permission within a period of two weeks thereon. No costs. Consequently, the connected Miscellaneous Petition is closed.

21.04.2023

NCC:Yes/No
Index:Yes/No
Speaking/Non-speaking order

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P.T.ASHA, J.

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