



W.A.(MD) No.1750 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **09.10.2023**

CORAM

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

W.A.(MD) No.1750 of 2023
and C.M.P.(MD) No.13314 of 2023

S.Rajaram

... Appellant/2nd Respondent

-Vs.-

1.M/s.Max Properties Private Limited,
Rep. by its Director S.S.Ramakrishna,
Max Plaza, 1st Floor, Arunachala Street,
S.S. Colony, Madurai – 625 010. ... 1st Respondent/Writ Petitioner

2.The Assistant Director and Member Secretary,
Madurai Local Planning Authority,
Madurai District Town and Country Planning Office,
Sector 6, Aanaiyur – Mudakathan Main Road,
Koodal Pudur, Madurai – 625 017. ... 2nd Respondent/1st Respondent

PRAYER:- Writ Appeal filed under Clause 15 of Letters Patent Act, to
set aside the order dated 25.01.2023 made in W.P.(MD)No.28094 of 2022
on the file of this Court.

For Appellant : Mr.K.Ragatheesh Kumar
M/s.Isaac Chambers

For 1st Respondent : Mr.N.Sathish Babu



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For 2nd Respondent : Mr.N.Satheesh Kumar
Additional Government Pleader

J U D G M E N T

(Judgment of the Court was delivered by **S.M.SUBRAMANIAM, J.**)

The Writ Appeal on hand has been instituted against the order dated 25.01.2023, passed in W.P.(MD)No.28094 of 2022.

2. The grievances of the appellant is that the first respondent has not placed the facts before the learned Single Judge in entirety and more so, based on the submission of the first respondent / writ petitioner, the Writ Petition was allowed. No opportunity was granted before the Writ Court and when that being the factum, allowing the Writ Petition caused prejudice to the interest of the parties.

3. Learned counsel appearing on behalf of the first respondent / writ petitioner made a submission that the Assistant Director and Member Secretary, Madurai Local Planning Authority has clarified that the service road in question is more than 7 meters as originally projected by the writ petitioner's application. When the competent authority has confirmed the width of the service road, there is no reason to interfere with the order passed in the Writ Petition.



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4. Learned Additional Government Pleader appearing for the second respondent made a submission that the authorities competent have acted in consonance with the procedures as contemplated and there is no infirmity.

5. We are of the considered opinion that the impugned order dated 01.10.2022, which was under challenge in the writ proceedings, was issued without any show cause notice to all the parties and an opportunity was not afforded to the first respondent M/s.Max Properties Private Limited. That apart, the findings in the Writ Order would reveal that the Assistant Director and Member Secretary, Madurai Local Planning Authority, has clarified that the service road in question is more than 7 meters as originally projected by the writ petitioner in his application. Learned Single Judge allowed the Writ Petition mainly on the ground that the authority competent has taken a decision in favour of the writ petitioner and therefore, he cannot turn around thereafter. Such a finding is unnecessary in view of the fact that no opportunity was afforded to the first respondent M/s.Max Properties Private Limited. A final opinion in that regard has to be formed only after affording opportunity to the parties and the survey to be conducted in the presence



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of all the parties. We do not see any such exercise done by the second respondent and thus, we are inclined to consider the Writ Appeal.

6. Accordingly, the order dated 25.01.2023, passed in W.P. (MD)No.28094 of 2022 and the impugned order in the Writ Petition issued by the Assistant Director and Member Secretary, Madurai Local Planning Authority in proceedings in Na.Ka.No.830/2021/Ma.Thi.2 dated 01.10.2022 are set aside and the second respondent Assistant Director and Member Secretary, Madurai Local Planning Authority, is directed to conduct a field inspection by issuing show cause notice to all the parties and conduct survey in the presence of the parties and thereafter, take a decision and pass appropriate final orders on merits and in accordance with law in an impartial manner within a period of six weeks from the date of receipt of a copy of this order. The appellant as well as the first respondent are directed to cooperative for joint inspection and to conduct survey. If there is non-cooperation on the side of any of the parties, the second respondent is at liberty to proceed and complete the process of survey and pass appropriate orders.

7. Accordingly, the Writ Appeal stands allowed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.



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[S.M.S.J.] & [V.L.N.J.]
09.10.2023

NCC :Yes/No
Index :Yes/No
SJ

To

- 1.The Assistant Director and Member Secretary,
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Madurai District Town and Country Planning Office,
Sector 6, Aanaiyur – Mudakathan Main Road,
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AND
V. LAKSHMINARAYANAN, J.

SJ

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