



**WRIT APPEAL(MD)No.1250 of 2023**

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

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|---------------------|------------|
| Date of Reservation | 02.08.2023 |
| Date of Judgment    | 08.08.2023 |

**CORAM**

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR  
AND  
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

WRIT APPEAL(MD)No.1250 of 2023  
and  
CMP(MD)No.9353 of 2023

S.Sulthan Beevi : Appellant/Petitioner  
Vs.

1.The Director of Town and Country Planning,  
2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Floor, C and E Market Road,  
Koyembedu, Chennai-107.

2.The Assistant Director of Town and Country  
Planning Authority,  
2<sup>nd</sup> Street, Ganapathy Nagar,  
M-C Road, Thanjavur District.

3.The Executive Officer,  
Ayyempettai Town Panchayat,  
Thanjavur District.

4.The Sub Registrar,  
Sub Registrar Office,  
Ayyempettai, Thanjavur District.



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5.Muhammadhupaisal

6.G.D.Badhurudeen Ahmed

: Respondents/Respondents

**Prayer:**

Writ Appeal has been filed under Clause 15 of Letters Patent to set aside the order, dated 27.06.2023 made in W.P.(MD)No.1770 of 2022 on the file of this Court.

|               |                                                                                 |
|---------------|---------------------------------------------------------------------------------|
| For Appellant | : Mrs.Nalini Chidambaram<br>Senior Counsel<br>for Mr.S.Karthick                 |
| For R1 to R4  | : Mr.M.Linga Durai<br>Special Government Pleader<br>for Mr.R.M.Makesh Kumaravel |
| For R5 and R6 | : Mr.M.Ajmalkhan<br>Senior Counsel<br>for M/s.Ajmal Associates                  |

**J U D G M E N T**

**D.BHARATHA CHAKRAVARTHY, J.**

This Writ appeal is directed against the order of the learned Single Judge of this Court dated 27.6.2023 made in W.P.(MD )No.1770 of 2022. In the said writ petition, the appellant had challenged the order dated 12.11.2021, whereby the second respondent granted



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technical approval to regularize the unapproved layout called “IBN BATTUTA CITY” formed by the respondents 5 and 6.

2. The case of the writ petitioner is that a total extent of 50 cents of lands comprised in S.Nos. 376/1B, 376/2 and 376/4B of Soolamangalam 2 - Sethi Revenue Village, Ayyampettai Town Panchayat, Thanjavur District belongs to the appellant and not to the respondent 5 and 6. Therefore, when regularization is sought by including the appellant's land, the same ought not to have been granted by the respondents.

3. The Writ petition is resisted by the respondents by filing separate counter affidavits. It is the case of the official respondents that the technical approval was granted upon due scrutiny of the application and compliance of the Rules. It is the case of the respondents 5 and 6 that their title deeds include the 50 cents of land claimed by the appellant and patta in respect of the entire extent stood in their name.



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4. The learned Single Judge, after considering the respective cases of the parties, held that the petitioner will have to approach the civil court seeking necessary relief and the issue is raised cannot be adjudicated in the writ petition and dismissed the same.

5. Mrs.Nalini Chidambaram, learned Senior counsel appearing on behalf of the appellant would submit that the onus to establish the title by approaching the civil Court ought to have fastened only on the respondents 5 and 6, the promoters of the layout who are only duty bound to prove their title. She would submit that the learned Judge ought to have seen that the appellant/writ petitioner challenged the technical approval for violation of statutory rules. Firstly in the present layout, no part of the layout has been sold through a registered sale deed as on 20.10.2016 and therefore, the present layout in question cannot be dealt with under the Tamil Nadu Regularization of Unapproved Layouts and Plots Rules, 2017, framed vide G.O.(Ms). No. 78, dated 04.05.2017. The learned Senior Counsel would also rely upon Rule 5 (8) which mandates that an application



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made by any person for regularization of plot or layout who does not have any right over the land shall be summarily rejected. She also placed reliance on Rule 9(b)(v) which mandates production of a self attested copy of the ownership documents in favour of the promoter. Therefore, the learned Single Judge ought to have quashed the impugned order and ought not to have relegated the appellant to the Civil Court.

6. Per contra, Mr.M.Ajmal Khan, the learned Senior counsel appearing on behalf of the respondents 5 and 6 would submit that the layout was formed prior to the year 2016 and house sites have been sold prior to 20.10.2016. He would further submit that the claim of title by the appellant is untenable. The fifth and sixth respondents have demonstrated their title in detail vide paragraph Nos.12 to 15 of the counter affidavit and have produced all the documents and the patta before the second respondent. When the second respondent had *prima facie* satisfied himself in respect of the title of the promoters, any further dispute by setting up of a rival claim cannot be gone into in



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the regularization proceedings and the Assistant Director of Town and Country Planning cannot pronounce upon the *lis* between the parties.

7. We have considered the rival submissions made on either side and perused the material records of the case.

8. Regarding the applicability of the Regularization Rules, in para 10 of the counter affidavit filed by the first respondent it is specifically mentioned that 68 house sites has been sold prior to 20.10.2016. The same was not specifically refuted by filing any rejoinder affidavit. Therefore, there is no reason to disbelieve the first respondent.

9. As far as the violation of the other rules relating to verification of title is concerned, it can be seen from the records that this is not a case where the technical approval is granted without any claim for title by the promoters or without the production of supporting documents or without scrutiny thereof. Therefore, there is no violation of Rule 5(8) or 5(9)(b)(v) as claimed by the appellant. It is



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the case of the appellant that out of the entire layout, she has title over 50 cents. When the dispute is raised by her, it cannot be decided by the respondents 1 and 2. Merely because a dispute is raised, the approval cannot be refused. Therefore, it is for the appellant to approach the Civil Court and establish her title and seek for other reliefs. Thus the order of the learned Single Judge does not call for any interference.

10. In the result, this Writ Appeal stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

[S.S.S.R., J.] [D.B.C., J.]

08.08.2023

NCC : Yes / No  
Index:Yes/No  
Internet: Yes/No  
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**AND**  
**D.BHARATHA CHAKRAVARTHY, J.**

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Pre-Delivery Judgement made in  
WRIT APPEAL(MD)No.1250 of 2023

08.08.2023