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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.04.2023

CORAM

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

W.P.(MD)Nos.21657 and 21658 of 2022

W.P.(MD)No.21657 of 2022:-

R.Ramasamy

... Petitioner

vs.

The President,
Andankovil East Village Panchayat,
Thanthoni Union, Manmangalam Taluk,
Karur District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the respondent, dated 22.08.2022 and to quash the same and consequently, to direct the respondent to grant final approval in the light of the technical approval granted by the Assistant Director of District Town and Country Planning in his proceedings in Na.Ka.No.585/2022/Ka.Ma, dated 29.04.2022.



W.P.(MD)No.21658 of 2022:-

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R.M.Rajesh Kumar

... Petitioner

vs.

The President,
Andankovil East Village Panchayat,
Thanthoni Union, Manmangalam Taluk,
Karur District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the respondent, dated 22.08.2022 and to quash the same and consequently, to direct the respondent to grant final approval in the light of the technical approval granted by the Assistant Director of District Town and Country Planning in his proceedings in Na.Ka.No.586/2022/Ka.Ma, dated 29.04.2022.

For Petitioner :Mr.K.Suresh
For Respondent :Mr.G.Suriya Ananth
Additional Government Pleader

COMMON ORDER

Arguments were advanced in both the Writ Petitions in common and a counter affidavit had also been filed. Since the facts overlapped, a common order is passed.



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2.Let me take as an illustration the averments made in W.P. (MD)No.21657 of 2022. The Writ Petition had been filed in the nature of a Certiorarified Mandamus seeking records relating to the order of the respondent/President, Andankovil East Village Panchayat, Thanthoni Union, Manmangalam Taluk, Karur District, dated 22.08.2022 and to quash the same and to direct the respondent to grant final approval in the light of the technical approval granted by the Assistant Director of District Town and Country Planning in proceedings in Na.Ka.No. 585/2022/Ka.Ma., dated 21.04.2022.

4.Heard Mr.K.Suresh, learned Counsel for the petitioner and Mr.G.Suriya Ananth, learned Additional Government Pleader for the respondent.

5.The petitioner had purchased land in Andankulam East Village, Manmangalam Taluk, Karur District in S.F.No.626/1 measuring 0.41³/₄ acres by a registered sale deed, dated 08.12.2021, registered as Doc.No. 9838/2021. Patta had also been issued in the name of the petitioner. Thereafter, the vendors of the petitioner and other co-owners had gifted a



portion of the property in S.F.No.626/1 for common purpose for laying road. This was by a registered gift deed, dated 04.01.2022 registered as Doc.NoS.38 and 39/2023. It was stated that this aspect of execution of gift deed had been an ongoing discussion from the year 2018.

6.The learned Counsel while narrating the facts stated that in the year 2019, there was no elected Panchayat and therefore, to widen the common road from 20 feet to 30 feet, a proposal was given out that land can be gifted for widening the road. The Block Development Officer at that particular point of time had apparently approved such proposal. In the meanwhile, before the gift deed could actually be executed and registered, COVID-19 pandemic set in. In the year 2022, on 04.01.2022, the gift deeds were actually executed and registered.

7.In the meanwhile, the Panchayat came into office and the Panchayat had passed a resolution again affirming that a gift deed must be given for widening the road from 20 feet to 30 feet. They had passed a resolution on 21.01.2022. But even prior to that, gift deeds had been registered. Probably taking umbrage over the fact that gift deeds had



been registered prior to such a resolution, the impugned order came to be passed refusing final approval of the building plan submitted by the petitioner herein.

8.It is to be noted that the petitioner had also obtained technical approval from the Deputy Director of Town and Country Planning, by proceedings 29.04.2022. It is only an issue of the gift deed being executed prior to the resolution of the Panchayat. But as a fact, the concept that such gift deed should be executed had been under discussion from the year 2018 onwards.

9.I do not find any irregularity in the gift deeds being executed and I really hope that the respondent would not stand either on technicalities or on the fact that they must first pass a resolution and then they would accept the very same gift deeds. Either way, they have the benefit of a gift deeds being registered which would enable the road to be widened from 20 feet to 30 feet.

10.The other aspects stated in the counter affidavit is about the gift



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deeds being executed by various other persons, whose names are not found in the patta. It is stated that to avoid any clog in the title, the gift deeds had been executed not only by those whose names are found in the patta, but also by all their family members.

11. In view of all these reasons, since the gift deeds stand, I would place a direction on the respondent to grant final approval. No doubt it is a fact that the gift deeds should also be accepted, but I would rather that the respondent accept the gift and take the land as having been gifted only for the purpose of widening the road. In view of that particular fact, the order impugned is set aside as the reasons stated therein does not stand the scrutiny of the Court. A direction is given to the respondent herein to reconsider the entire issue, and if otherwise the petitioner satisfies all the necessary conditions proceed to grant final approval, as is required. The entire exercise should be completed within a period of twelve weeks from the date of receipt of a copy of this order.

12. It is to be noted that facts in W.P.(MD)No.21658 of 2022 are also same and the petitioner also stands on the same footing as the



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petitioner in W.P.(MD)No.21657 of 2022. Both the Writ Petitions are therefore, disposed with that particular direction to the respondent therein. No order as to costs. Consequently, connected miscellaneous petitions are closed.

Index :Yes / No
Internet :Yes
NCC : Yes/No
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12.04.2023



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C.V.KARTHIKEYAN, J.

cmr

Order made in
W.P.(MD)Nos.21657 and 21658 of 2022

12.04.2023