



W.P(MD)No.11630 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.09.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.11630 of 2015

and

W.M.P(MD)No.2 of 2015

1.Uma Nanthini

2.A.Ravi Mani

... Petitioners

Vs.

1.The Commissioner,
Corporation of Madurai,
Arignar Anna Maligai,
Thallakulam,
Madurai.

2.The Assistant Executive Engineer, (Planning),
Corporation of Madurai,
Arignar Anna Maligai,
Thallakulam,
Madurai.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the order passed by the first respondent in Mathi2/032286/14, dated 09.01.2015 and to quash the same as illegal and further direct the respondent herein



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to approve the building Plan submitted for the Plot No.7 and Plot No.9, being part of the layout approved under Lay-out No. 4 4/06, under Ref. No. Mathi1/22351/06, dated 23.08.2006, comprised under S.No.97 & 82/1B1, 1B2, 1C1, 1C2 (P), 1C3, 86/2A1, 2A2, 2A3, 2A4 (P) of Sambakulam Hamlet, Thallakulam Village, Madurai District.

For Petitioners : Mr. K.R.Laxman

For Respondents : Mr. K.Mani Sekaran
Standing Counsel

ORDER

Heard the learned counsel appearing for the writ petitioners and the learned Standing Counsel appearing for the respondent Corporation.

2. The petitioners had purchased the petition mentioned plots (7 and 9) vide sale deed dated 23.08.2007. The petitioners thereafter applied to the respondents for building plan approval. The petitioners application was rejected on the ground that the plots have been earmarked for public purpose and are standing in the name of the Commissioner, Madurai Corporation. Challenging the said communication dated 09.01.2015, the present writ petition came to be filed.



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3. The respondents have filed counter affidavit and the learned Standing Counsel took me through its contents. He called upon this Court to sustain the impugned communication and dismiss the writ petition.

4. After carefully considering the entire materials on record, it is seen that the Association of Tamil Nadu Electricity Board (TNEB) employees submitted an application way back in the year 1983 for layout approval. The total extent covered by the application was 5 acres and 11 cents. A portion of the layout was earmarked for establishing bus terminal. That is why this portion was shown as meant for public purpose. However, the applicants did not execute any formal gift deed in favour of Madurai Corporation; it remained as such. It appears that in the detailed development plan, the said area was shown as public purpose for establishing bus terminal and that is why the said portion was completely kept free of any housing development.

5. As per Section 38 of Tamil Nadu Town and Country Planning Act, 1971, consequential steps for acquiring should have been taken. If



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such steps are not taken within three years, the plan would lapse and the land would be deemed to have been released from such reservation. That is why in the year 2006, purchasers from the EB Association applied to the Corporation and obtained pacca building plan approval. In the application submitted for site approval in the year 2006, as many as 22 plots have been shown.

6. The learned counsel appearing for the petitioners states that building plan approval was given in respect of other plots. Therefore, in respect of the application submitted for the petition mentioned two plots alone, the corporation authorities cannot say “No”.

7. In this view of the matter, the order impugned in this writ petition is set aside. Direction is given for making appropriate changes in the town survey register. The names of the petitioners will be entered in respect of the petition mentioned plots. The petitioners shall submit a fresh application for building plan approval before the respondents and the respondents will grant approval subject to fulfillment of all the present norms set out in the planning laws.



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8. This writ petition is allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

08.09.2023

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

MGA

To

- 1.The Commissioner,
Corporation of Madurai,
Arignar Anna Maligai,
Thallakulam,
Madurai.
- 2.The Assistant Executive Engineer, (Planning),
Corporation of Madurai,
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G.R.SWAMINATHAN,J.

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