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W.P.No.13318 of 2004

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR

W.P.No.13318 of 2004

and

W.M.P.No.15590 of 2004

S.Dekshinamurthi

... Petitioner

Vs.

- 1.State of Tamil Nadu, represented by
Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Chennai – 600 009.
- 2.Chennai Metropolitan Development Authority,
represented by Member Secretary,
No.8, Gandhi Irwin Road,
Chennai – 600 008.
- 3.St.Thomas Mount Panchayat Union @
represented by its Commissioner,
Chitlapakkam,
Chennai – 600 064.



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4.The Tamil Nadu Coastal Zone Management Authority,
Represented by its Member Secretary,
Director of Environment,
Government of Tamil Nadu,
Chennai – 600 009.

5.Greater Chennai Corporation,
Represented by its Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai – 600 003.

... Respondents

*[R4 impleaded as per Court order dated 08.08.2019
in W.M.P.No.23074 of 2019 in W.P.No.13318 of 2004]*

*[R5 impleaded as per Court order dated 30.08.2023
in W.M.P.No.24049 of 2023 in W.P.No.13318 of 2004]*

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to G.O.Ms.(D) No.76, Housing and Urban Development (UD5) Department, dated 08.02.2002, confirming the order of the 2nd respondent in Letter No.A2/25813/98, dated 08.02.1999, peruse the same and quash the same and direct the 2nd respondent herein to grant planning permission for the house built in Plot No.302, Palkalai Nagar, Pallavakkam, Chennai – 600 041.



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For Petitioner : M/s.Varuni Mohan
for Mr.G.Vivekanand

For R1 and R4 : Mrs.S.Anitha
Special Government Pleader

For R2 : Mr.Y.Bhuvanesh Kumar

For R3 : Mr.E.C.Ramesh

ORDER

(Order of the Court was made by **S.S. SUNDAR, J.**)

This writ petition is filed challenging the order passed by the 1st respondent, dated 08.02.2002, confirming the order of the 2nd respondent, dated 08.02.1999.

2.The case of the petitioner is that he is an employee of University of Madras. The University of Madras appears to have acquired lands from the original owners and converted the same into house sites. It is the case of the petitioner that all the plots were approved as per the Rules and Regulations existing in 1981. The petitioner appears to have purchased Plot No.302 in



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Palkalai Nagar, Palavakkam Village, from another employee of University of Madras, to whom it was originally allotted, for a valid consideration.

When the petitioner applied for planning permission to the 2nd respondent through the 3rd respondent, the 2nd respondent refused to grant permission by proceedings dated 04.10.1996 on the ground that no construction is permitted within 500 m from the High Tide Line in that zone. While passing the order, it was observed by the 2nd respondent that the site under reference lies within 500 m, i.e., 323 m from the seashore. The petitioner, thereafter, received notice from the 2nd respondent under Sections 56 and 57 r/w. Section 85 of Town and Country Planning Act, 1971, to stop work immediately. Thereafter, another notice was served on the petitioner to restore the land to its condition before the construction within 30 days. Though the petitioner has now stated that the University of Madras has constructed a house in the approved plots before allotting to the employees even though such plots are within 500 m from the High Tide Zone, no records are produced before this Court to establish the said fact. The petitioner appears to have put up construction with a *bona fide* belief that the construction would be approved.



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4. It is brought to the notice of this Court that, as per the revised Coastal Area Classification and Development Regulations, the prohibited distance is only 200 m from the High Tide Line for putting up any construction. Therefore, this Court earlier, by order dated 14.06.2023, directed the learned counsel for the respondents to get instructions regarding the applicability of the revised Regulations to regularize the construction. However, the learned counsel for the respondents are unable to get any instructions.



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5. In the said circumstances, having regard to the fact that the writ petition is pending from the year 2004, this Court is inclined to dispose of this writ petition in the following lines :

- i. Since the impugned orders challenged in the writ petition are in accordance with the Coastal Regulations then in vogue, this Court is not inclined to entertain the writ petition.
- ii. However, in view of the change of circumstances, i.e., revised notification has been issued and the prohibited distance in CRZ-III has now been reduced to 200 m, the petitioner is directed to apply afresh for building permission and for development, by following the procedures, within a period of three weeks from the date of receipt of a copy of this order.
- iii. If any application is submitted by the petitioner within a period of three weeks from the date of receipt of a copy of this order, the 5th respondent/Greater Chennai Corporation shall consider the same in accordance with the existing Development Rules, including CRZ-III of Coastal Area Classification and Development Regulations, within a



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period of twelve weeks thereafter.

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- iv. Till such time the application submitted by the petitioner is considered and disposed of on merits by the 5th respondent Corporation as indicated above, no coercive action shall be taken against the offending construction.
- v. However, the petitioner shall not continue with any construction till such time the petitioner's application is considered and disposed of by the 5th respondent.
- vi. No costs. Consequently, connected miscellaneous petition is closed.

(S.S.S.R., J.) (N.S., J.)
11.01.2024

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Internet : Yes

Index : Yes / No

Neutral Citation : Yes / No



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To

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