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W.P.No.13787 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2024

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.13787 of 2023

and

W.M.P.Nos.13454, 13457, 13460, 13463 and 13744 of 2023

S.Stella

... Petitioner

-Vs-

1. The Secretary to Government
(Housing and Town Planning),
Puducherry,
Goubert Avenue, Beach Rd,
White Town,
Puducherry-605001.
2. The Chief Town Planner,
Puducherry Planning Authority,
Puducherry – 605005.
3. The Chief Town Planner,
Town and Country Planning Department,
Jawahar Nagar, Boomianpet,
Puducherry – 605005.
4. The Member Secretary,
Puducherry Planning Authority,
Jawahar Nagar, Boomianpet,
Puducherry – 605005.
5. The Member Secretary,



W.P.No.13787 of 2023

WEB COPY

Puducherry Real Estate Regulatory Authority (RERA),
Office of Real Estate Regulatory Authority,
Jawahar Nagar,
Puducherry – 605005.

6. Director of Survey and Land Records,
Department of Survey and Land Records,
II Floor, Revenue Complex, Kamaraj Salai,
Saram, Puducherry – 605013.

7. The Commissioner,
Villianur Commune Panchayat,
Puducherry – 605 110.

8. The Sub Collector,
Villianur Commune Panchayat,
Puducherry – 605 110.

9. The Sub-Registrar,
Villianur Registration Office,
Puducherry – 605110.

10. Executive Engineer – IV (O & M),
Electricity Department,
Main Office Campus,
No.137, NSC Bose Salai,
Puducherry – 605 001.

11. S.Maidily

12. N.Ramani

13. P.Sattiavatty

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records of the 4th respondent, pertaining to the Industrial Layout Approval No.PPA / 3918 / 1110 / Z(VCP) / SB / LAYOUT) / 2021 Dt. 28.07.2021 in the



W.P.No.13787 of 2023

name of MRS Nagar at RS No.22/1, Kurumbapet Revenue Village, Villianur Commune Panchayat, Puducherry and quash the same.

For Petitioner : Mr.K.P.Prabhuraj
for M/s AK.Mylsamy Associates
For R1 to R10 : Mr.V.Vasanth Kumar
Additional Government Pleader (P)
For R11 to R13 : Notice Served, No appearance

ORDER

This writ petition has been filed challenging the Industrial Layout Approval dated 28.07.2021 for the land comprised in RS No.22/1, Kurumbapet Revenue Village, Villianur Commune Panchayat, Puducherry.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader (Puducherry) for the respondents 1 to 10 and perused the materials available on record.

3. The petitioner is the Proprietrix of M/s Goutham Metals, a Micro and Small Enterprise unit (MSME) having her factory and office at R.S.No.21/3, Vazhudavur Road (west), Kurmbapet, Villianur,



W.P.No.13787 of 2023

Puducherry – 605009 to an extent of 11.54 ares which was purchased by the petitioner by the registered sale deed dated 28.03.2003 vide Document No.842/2003. The petitioner has access to her factory from the land belongs to M/s Dhaval Cans Pvt. Ltd., and it is 15 feet private road. While being so, the neighbouring land comprised in R.S.No.22/1, belongs to the respondents 11 to 13 and developed the said land for industrial layout and applied for approval before the fourth respondent. They were given approval for industrial layout for their land on 28.07.2021. The petitioner came to know about the development of industrial layout and submitted a representation to cancel the approval granted by the fourth respondent, on the ground that the access belongs to the petitioner with the width of 15 ft and it has been shown as public road and obtained the layout approval.

4. The learned counsel for the petitioner would submit that the petitioner's vendor viz., Jakharia Trusteeship Company Pvt.Ltd, owned rear portion of the property and the front portion of the property was owned by M/s Dhaval Cans Pvt. Ltd.,. In order to use the said land, the said M/s Dhaval Cans Pvt. Ltd., executed an affidavit in favour of the



W.P.No.13787 of 2023

petitioner to use the said road with the width of 20 feet as private road.

Therefore, it cannot be shown as public road for grant of industrial approval.

5. He further submitted that the Revenue Inspector inspected the road and measured the width as 6.10 mt (20 feet). As per the amended rules of Puducherry Building Bylaws and Zoning Regulations, 2012, it requires minimum of 30 feet for industrial layout approval. Therefore, it is a clear violation of Puducherry Building Bylaws and Zoning Regulations, 2012 and as such, the fourth respondent ought not to have granted any industrial approval.

6. On instructions, the learned Additional Government Pleader (Puducherry) submitted that the respondents 11 to 13 had submitted application for approval for forming industrial layout i.e., MRS Nagar at R.S.No.22/1, Kurumbapet Revenue Village, Puducherry. The proposal was processed and No Objection Certificates were obtained from the concerned department as per the decision of the Puducherry Planning Authority committee by its meeting dated 07.01.2021. In fact, the



W.P.No.13787 of 2023

WEB COPY

Villianur Commune Panchayat has accorded No Objection Certificate by its communication dated 13.07.2021 for approval of forming the industrial layout. While being so, one P.Kandasamy raised objections not to issue approval for the proposed industrial layout at R.S.No.22/1, Kurumbapet Revenue Village, claiming that the access road shown to the layout is a private road. It was referred before the 7th respondent herein and on enquiry, it was found that the road portion in R.S.No.21/3D absolutely belonged to Villianur Commune Panchayat. The road is also free from any obstruction and having free access to the proposed layout MRS Nagar in R.S.No.22/1, Kurumbapet Revenue Village. Therefore, 7th respondent issued No Objection Certificate dated 13.07.2021 in order to grant layout approval.

7. Further, on verification of records revealed that the said P.Kandasamy had applied for Puducherry Planning Authority approval for construction of industrial building and in order to comply the norms of 9 metre road requirements, he had handed over his patta land in R.S.No.21/3 to an extent of 15 feet wide and 135 feet length in favour of the 7th respondent herein. He had also remitted Road Development



W.P.No.13787 of 2023

charges to the tune of Rs.1,82,585/-. After having been obtained building plan approval, he had encroached the road portion of entire 9 metres and constructed a wall obstructing the access to road. It is a clear violation of G.O.Ms.No.20/2017 Hg., Puducherry dated 20.10.2017. Thereafter, the 8th respondent, by its proceedings dated 01.10.2020 under Section 133 Cr.P.C, ordered to demolish the said compound. Accordingly, the said wall was removed and the road portion is now free for any encroachment.

8. Now, the petitioner is also claiming the said road portion as private road. As per the report submitted by the 7th respondent, the road which is mentioned in the approved industrial layout granted in favour of the respondents 11 to 13 belongs to Villianur Commune Panchayat viz., the 7th respondent.

9. In view of the above, this Court finds no infirmity or illegality in the order passed by the fourth respondent and the writ petition is devoid of merits and is liable to be dismissed.

10. Accordingly, this writ petition stands dismissed. Consequently,



W.P.No.13787 of 2023

connected Miscellaneous petitions are closed. No costs.

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28.08.2024

Internet: Yes

Index : Yes/No

Neutral Citation: Yes/No

Speaking/Non Speaking order
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W.P.No.13787 of 2023

WEB COPY

To

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W.P.No.13787 of 2023

G.K.ILANTHIRAIYAN. J.

mn

7. The Commissioner,
Villianur Commune Panchayat,
Puducherry – 605 110.
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