



W.P.No.14979 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2024

CORAM

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No. 14979 of 2024

and

W.M.P.Nos.16270 & 16272 of 2024

1.K.Amudhavali @ K.Amudha
2.Sivasankaran
3.Gayathri

.... Petitioners

Vs

1. The Assistant Director,
Local Town Planning Authority,
Tamizhmuthu Nagar,
Kondur, Cuddalore – 607 006.

2. The President,
Varakalpattu Panchayat,
Varakalpattu Village,
Cuddalore Taluk,
Cuddalore.

3. The Block Development Officer,
Cuddalore Panchayat Union,
Cuddalore Taluk,
Cuddalore.

4. The Sub-Registrar,
Nellikuppam,
Cuddalore.

.... Respondents



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Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order dated 01.03.2023 vide Na.Ka.No.231/2023/Ka.Maa. Issued by the first respondent by cancelling the layout road pattern approval granted by them to the petitioners in Survey Nos.39/2B1, 62/2 and 62/6 relating to the land measuring 7.97 acres of Varakalpattu Village, Cuddalore and quash the same as unconstitutional, non-est in the eyes of law and further direct the first respondent to permit the petitioners to execute/register the gift deed in favour of the second respondent as per the order dated 02.11.2022 vide ROC.No.OEYK4K2R/4897 issued by the first respondent.

For Petitioner : Mr.R.Sreedhar

For R1 & R4 : Mr.V.Manoharan
Additional Government Pleader

For R2 & R3 : Mrs.P.Aishwarya
Government Advocate

ORDER

This Writ Petition has been filed challenging the proceedings dated 01.03.2023 on the file of the first respondent, thereby cancelled the layout approval for the land comprised in suvey Nos.39/2B1, 62/2 and 62/6 admeasuring 7.97 acres of Varakalpattu Village, Cuddalore District.

2. Heard the learned counsel appearing on either side and



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perused the materials available on record.

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3. The first petitioner's husband owned a land admeasuring 0.42, 4.41, 4.40 in altogether 3.23 hectares, which is equivalent to 7.97 acres in Survey No.39/2B1, 62/2, 62/6, situated at Varakalpattu Village, Cuddalore Panchayat Union, Cuddalore. It was acquired by her husband by way of partition between the family members registered vide partition deed No.1236 of 2003 dated 18.07.2003. While being so, her husband died on 28.05.2009 leaving behind the petitioners as his legal heir. Thereafter, in order to develop the said property, the petitioners applied for layout approval before the first respondent. Their application was duly considered and by an order dated 02.11.2022, the layout was approved and also directed to handover the road space, park area, PP1 Site (Reserved Local Body Area), PP2 Site (Reserved for TANGEDCO) by executing a registered Gift Deed in favour of the local body. While being so, the first respondent passed an order dated 01.03.2023, thereby cancelled the layout approval and directed the respondents 2 to 4 herein not to deal with the property by any registration.

4. A perusal of the order impugned in this writ petition



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reveals that on the basis of the legal notice received from one Advocate Rammohan, the layout approval was immediately cancelled without any notice to the petitioners and without giving an opportunity of hearing to them. A perusal of the legal notice dated 31.01.2023 reveals that his client filed a suit for partition in respect of the subject property in O.S.No.394 of 2021 and also filed an application in I.A.No.774 of 2021 for injunction as against the petitioners, which are pending on the file of the Principal District Judge, Cuddalore. Therefore, the respondents 1 to 3 were called upon not to grant any approval for house sites in the subject property. On receipt of the said notice, the first respondent, mechanically, cancelled the layout approval, that too, without any notice to the petitioners and without giving an opportunity of hearing to the them.

5. Admittedly, the suit was filed by the other family members of the petitioners for partition and it is pending without any interim order. That apart, the petitioners applied for planning approval for the subject property on 04.10.2022 itself and the same was accepted and approved by the first respondent by an order dated 02.11.2022 itself.



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Thereafter, the counter parties caused legal notice on 31.01.2023 not to grant any layout approval for the subject property, since the subject property is subjected for partition in O.S.No.394 of 2021 on the file of the Principal District Judge, Cuddalore. On the basis of mere a legal notice, the first respondent ought not to have cancelled the approval, that too without affording an opportunity of hearing to the petitioners.

6. According to the petitioners, the first petitioner's husband had title over the property by way of partition deed dated 18.07.2003 registered vide document No.1236 of 2003. The first petitioner's husband was also issued patta in respect of the subject property. Therefore, if at all they have any share over the property, the counter parties can very well agitate the same before the first respondent, subject to the result of the partition suit.

7. In view of the above, the impugned order passed by the first respondent dated 01.03.2023 cannot be sustained and it is liable to be quashed. Accordingly, it is hereby quashed. The counter parties are at liberty to challenge the approval, subject to the result of the partition



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8. In the result, this writ petition stands allowed.

Consequently, connected miscellaneous petitions are closed. No costs.

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Internet : Yes
Index : Yes/No
Neutral Citation : Yes/No
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To

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