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W.P. No. 28951 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.02.2024

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 28951 of 2023

and

W.M.P. No. 28541 of 2023

M/s. Sumangali Homes Pvt. Ltd.
Rep. by its Managing Director S.Prabu
No. 5/158, Perumalkoil Street
Medavakkam, Chennai – 600100.

... Petitioner

-VS-

1. The Collector
Chengalpattu District Collector Office
GST Road, Chengalpattu
Pin Code – 603001.
2. The Commissioner-cum-
The Block Development Officer
St. Thomas Mount Panchayat Union
Chitlapakkam
Chennai – 600064.
3. The President
Perumbakkam Village Panchayat
Perumbakkam Village
Kancheepuram District
Tamil Nadu – 631502.
4. K.Senathipathy
5. K.S.Ravichandran
6. The Special Officer
Tamil Nadu Government Servants
Co-operative Building Society Ltd
XNC 747, In the office of the Commissioner of Fisheries
2nd Floor, Teynampet, Chennai – 600006.

... Respondents



W.P. No. 28951 of 2023

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records pertaining to the impugned Proceedings of the Second Respondent in Na.Ka. No. 4392/2022/A4 dated 27.07.2023 actually served on 25.08.2023 so as to quash the same.

For Petitioner : Mr. M.Jothi, Senior Advocate
For S.Vinod

For Respondents : Mr. S.Prabhakaran
Government Advocate (RR1 & 2 & 6)

Mr. M.Guruprasad (R4)

Mr. S.Rajmakesh (R5)

ORDER

Heard Mr. N.Jothi, Learned Senior Counsel appearing for the Petitioner, Mr. S.Prabhakaran, Learned Government Advocate appearing for the First, Second and Sixth Respondents and Mr. M.Guruprasad, Learned Counsel for the Fourth Respondent, Mr. S.Rajmakesh, Learned Counsel for the Fifth Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. It is the case of the Petitioner that the Second Respondent had granted lay-out approval for the land situate at Plot Nos. 1 to 5, Survey No. 38/4 part,



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Perumbakkam Village, Kancheepuram District by planning permits dated

23.05.2013 and 04.06.2013 in favour of the Petitioner. The Fourth Respondent had made a representation to the Second Respondent that the Petitioner has obtained the aforesaid lay-out approval by showing a price of land falling within in his private property as public road. The Second Respondent by Proceedings in Na. Ka. No. 4392/2022/A4 dated 27.07.2023 cancelled the lay-out approval granted to the Petitioner citing that on inspection, it was found that the public road mentioned in the lay-out of the Petitioner is found to be land belonging to the Fourth Respondent, which is challenged in this Writ Petition.

3. The pivotal attack on the impugned order by Learned Senior Counsel appearing for the Petitioner is that no notice or opportunity of personal hearing was afforded to the Petitioner before the impugned order was passed, which is in gross violation of the principles of natural justice. The Respondents have not produced any to show that any such notice had been served on the Petitioner before the impugned order was passed against it.

4. There is nothing in the impugned order passed by the Second Respondents to establish that before cancelling the lay-out approval granted in favour of the Petitioner that any show-cause notice has been issued to it calling



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for explanation from it with supporting materials relied in that regard. It is

needless to point out here that the Hon'ble Supreme Court of India in ***State of Orissa -vs- Binapani Dei*** (AIR 1967 SC 1269) has categorically ruled that any administrative decision entailing adverse civil consequences must be made consistently with the rules of natural justice by informing the person concerned of the case against him with the evidence in support thereof and after giving him an opportunity of being heard for meeting or explaining such evidence. Viewed from that perspective, it was certainly incumbent upon the Second Respondent to have informed the Petitioner about the proposed cancellation of lay-out approval and in the absence of any such exercise having been undertaken by the Second Respondent in that regard, it is not possible to sustain impugned action of the Second Respondent in straightaway cancelling the lay-out approval granted in favour of the Petitioner in this case.

6. In view of the foregoing discussion, this Court without expressing any view on the merits of the controversy involved, passes the following order:-

- (i) the impugned Proceedings in Na. Ka. No. 4392/2022/A4 dated 27.07.2023 issued by the Second Respondent is set aside;
- (ii) if it is intended to pass any fresh order of cancellation, a show-cause



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notice shall be issued by the concerned authority to the Petitioner of the

proposed action with supporting materials relied and atleast 10 working

days shall be granted to submit its explanation in that regard;

- (iii) an enquiry shall be conducted affording full opportunity of personal hearing to all persons concerned including the Petitioner to explain their respective positions in that regard;
- (iv) a reasoned order shall be passed dealing with each of the contentions raised by the contesting parties on merits and in accordance with law and the decision taken communicated under written acknowledgment; and
- (v) the report of such compliance shall be filed before the Registrar (Judicial) of this Court.

In the result, the Writ Petition is disposed on the aforesaid terms.

Consequently, the connected Miscellaneous Petition is closed. No costs.

29.02.2024

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Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 05.06.2024.

Maya

To

<https://www.mhc.tn.gov.in/judis>

1. The Collector



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Chengalpattu District Collector Office
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4. The Special Officer
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Co-operative Building Society Ltd
XNC 747, In the office of the Commissioner of Fisheries
2nd Floor, Teynampet, Chennai – 600006.

Copy to

1. The Registrar (Judicial),
Madras High Court,
Chennai – 600104.
2. M/s. Sumangali Homes Pvt. Ltd.
Rep. by its Managing Director S.Prabu
No. 5/158, Perumalkoil Street
Medavakkam,
Chennai – 600100.
3. K.Senathipathy,
2-D, Block – I, Bajaj Apartments,
No. 4, Nandanam Extension,
Nandanam,
Chennai – 600035.
4. K.S.Ravichandran,
2-D, Block – I, Bajaj Apartments,
No. 4, Nandanam Extension,



Nandanam,
Chennai – 600035.

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P.D. AUDIKESAVALU, J.

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