



W.P. No. 8271 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2024

CORAM

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

W.P. No. 8271 of 2023

and

W.M.P. Nos. 8465 and 8467 of 2023

J.Rajasekar

... Petitioner

-VS-

1. The District Collector
Coimbatore District
Coimbatore.
2. The Director
Directorate of Town and Country Planning
Chengalvarayan Building, 4th Floor
Anna Salai, Chennai.
3. The Commissioner
Coimbatore Corporation
Coimbatore.
4. The Joint Director
Town & Country Planning
Coimbatore Division
Coimbatore.
5. The Deputy Director
Town & Country Planning
Coimbatore.
6. V.S.Gunaseelan
7. Brindh Devi

... Respondents



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Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the Third Respondent pertaining to impugned order passed in Na.Ka. No. 5246/2018 Co.Ma dated 08.02.2022 and quash the same as illegal and direct the Third Respondent to given building and cinema theater approval of the Petitioner.

For Petitioner : Mr. M.Selvam

For Respondents : Mr. S.Prabhakaran, GA, (RR1 & 2)
Mr. U.Umapathi (RR3 to 5)
Mrs. AL.Ganthimathi, SC
For M/s. L.Palanimuthu (for R6 to R8)

ORDER

Heard Mr. M.Selvam, Learned Counsel for the Petitioner, Mr. S.Prabhakaran, Learned Government Advocate appearing for the First and Second Respondents, Mr. N.Umapathi, Learned Counsel appearing for the Third to Fifth Respondents and Mrs. AL.Ganthimathi, Learned Senior Counsel appearing for the Sixth to Eighth Respondents and perused the materials placed on record, apart from the pleadings of the parties.



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2. The Petitioner had on 07.10.2015 entered into a Memorandum of Understanding with the Sixth to Eighth Respondents in respect of the property measuring an extent of 4407.00 sq.mt. situate at Ward B, Block No. 23, T.S. Nos. 1220 (Part) and 1221 in Pollachi Municipality and Taluk, Coimbatore District (hereinafter referred to as 'the property' for short), and relying on it, the Fourth Respondent by Proceedings in Na.Ka. No. 5246/2018 Ko.Ma. dated 24.12.2020 had granted Planning Permission for construction of a cinema theatre in the property. Subsequently, certain disputes had arisen between the Petitioner and the Sixth to Eighth Respondents in respect of the property, and on receipt of the representation dated 21.10.2021 from the Sixth to Eighth Respondents, the said Planning Permission was cancelled by the Fourth Respondent by Proceedings in Na.Ka. No. 5246/2018 Ko.Ma. Dated 08.02.2022, which is assailed in this Writ Petition.

3. It has also been brought to notice the Civil Suits in O.S. No. 215 of 2019 before the District Munsif Court, Pollachi and in O.S. Nos. 183 of 2020, 107 and 280 of of 2021 before the IV Additional District Court, Coimbatore, are pending in respect of the disputes between the Petitioner and the Sixth to Eighth Respondents.



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4. It is evident that the nature of relief claimed by the Petitioner falls within the realm of disputed questions of fact, which cannot be effectively determined by this Court in proceedings under Article 226 of the Constitution following summary procedure. It must be recapitulated here that the Hon'ble Supreme Court of India in the decision in ***Roshina T. -vs- Abdul Azeez K.T.*** [(2019) 2 SCC 329] has cautioned that such claims relating to property rights would have to be answered one way or the other only in a properly framed suit impleading necessary parties before the civil court. In such circumstances, the Petitioner has not been impeded from canvassing what is sought to be agitated in this Writ Petition in the said remedy and there is no acceptable explanation from the Petitioner for not having availed it. It would obviously follow that it is only in the event that the Petitioner first establishes his title to the property claimed against the Sixth to Eighth Respondents before the civil court that he could seek for restoration of the Planning Permission for the property from the Fourth Respondent. In that view of the matter, this Court is not inclined to entertain this Writ Petition or delve into the merits of the controversy involved.



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In the result, the Writ Petition is disposed with the aforesaid observations.

Consequently, the connected Miscellaneous Petitions are closed. No costs.

13.02.2024

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 05.06.2024.

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To

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P.D. AUDIKESAVALU, J.

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