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W.P. No. 31263 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.02.2024

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

W.P. No. 31263 of 2023

and

W.M.P. Nos. 30879 and 30880 of 2023

A.K.Prabhakaran

... Petitioner

-VS-

1. The Commissioner
St. Thomas Mount Panchayat Union at Chitlapakkam
22, 2nd Main Road, Chitlapakkam
Chennai – 600064.
2. The President
Perumbakkam Panchayat Union
Chennai – 601302.
3. The Extension Officer
Perumbakkam Panchayat Union
Chennai – 601302.
4. K.Senathipathy
5. K.S.Ravichandran

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records of the First Respondent in respondent of the impugned order dated 27.07.2023 in Na.Ka.En.4392/2022/A4 and to quash the same as illegal.



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For Petitioner : Mr. A.S.Baalaji
For Respondents : Mr. G.Nanmaran (for R1)
Mr. S.Prabhakaran
Government Advocate (R3)
Mr. M.Guruprasad (R4)
Mr. S.Rajmakesh (R5)

ORDER

Heard Mr. A.S.Baalaji, Learned Counsel for the Petitioner, Mr. G.Nanmaran, Learned Counsel for the First Respondent, Mr. S.Prabhakaran, Learned Government Advocate appearing for the Third Respondent, Mr. M.Guruprasad, Learned Counsel for the Fourth Respondent and 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 First Respondent had granted lay-out approval for the land situate at Plot Nos. 1 to 5 on the Northern Side and Plot Nos. 1 to 5 on the Southern Side, Survey Nos. 38, 38/1B, 38/4, 38/4B, 39/6A, 39/6B, 39/6C, 39/6A2 and 69/6 part, Perumbakkam Village,



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Kancheepuram District by planning permits dated 06.06.2012 and 07.06.2012

in favour of the Petitioner. The Fourth Respondent had made a representation to the First 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 First 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 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 him.

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 First 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 First Respondent in that regard, it is not possible to sustain impugned action of the First 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 First Respondent is set aside;
- (ii) if it is intended to pass any fresh order of cancellation, a show-cause notice shall be issued by the concerned authority to the Petitioner of the



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proposed action with supporting materials relied and atleast 10 working

days shall be granted to submit his 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 Petitions are closed. No costs.

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Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 05.06.2024.

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3. The Extension Officer
Perumbakkam Panchayat Union
Chennai – 601302.

Copy to

1. The Registrar (Judicial),
Madras High Court,
Chennai – 600104.
2. A.K.Prabhakaran,
S/o. Late Kesava Reddy,
Director & Authorized Signatory,
M/s. Fair Deals Homes Private Limited,
21/27, Anjugam Nagar 1st Street,
Ashok Nagar,
Chennai – 600 083.
3. K.Senathipathy,
2-D, Block – 1, Bajaj Apartments,
No. 4, Nandanam Extension,
Nandanam, Chennai – 600 035.
4. K.S.Ravichandran,
2-D, Block – 1, Bajaj Apartments,
No. 4, Nandanam Extension,
Nandanam, Chennai – 600 035.



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P.D. AUDIKESAVALU, J.

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