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W.P.No.30994 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2024

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.30994 of 2023

and

W.M.P.Nos. 30630, 30632 & 30633 of 2024

P.Dinesh

rep. by its power agent P.Mohana

.... Petitioner

Vs

1.The Secretary to Government,
Government of Tamil Nadu,
Revenue Department,
Secretariat, Rajaji Salai,
Chennai – 600 009.

2.The District Collector,
Ranipet District,
Ranipet.

3.The Tahsildhar,
Arakkonam Taluk,
Ranipet District.

4.The Commissioner,
Arakkonam Municipality,
Arakkonam,
Ranipet District.

.... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India
for the issuance of Writ of Certiorarified Mandamus, calling for the



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records relating to the impugned order of the third respondent his proceedings in Mu.Mu.B1/1776/2023 dated 10.07.2023 and imputed Tender Notification in Se.Ma.Tho.E./5539/Oppanthapulli/2023, dated Nil and quash the same as being illegal, arbitrary, unconstitutional and consequently direct the respondents to maintain the said Battai Poromboke Land in T.S.No.37 of Arakkonam Town Survey, Arakkonam Town, Arakkonam Taluk, Ranipet District as the same in front of the petitioner's land alone to reach Tandhi (Tiruthani) Road.

For Petitioner : Mr.M.Stalin

For R1 to R3 : Mr.V.Manoharan
Additional Government Pleader

For R4 : Mr.L.P.Maurya
Standing Counsel

ORDER

This Writ Petition has been filed challenging the order dated 10.07.2023, thereby rejected the request made by the petitioner for issuance of No Objection Certificate to use the land comprised in Block No.4, T.S.No.35/1, which is classified as Battai Poromboke land situated at Arakonnam as a road.

2. Heard the learned counsel appearing on either side and perused the materials available on record.



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3. The petitioner owned a vacant plot comprised in old S.F.No.344/1 and S.F.No.258/2D, Arakkonam Town, Ward-B, Block No.4, T.S.No.35/1 situated at Door No.9, Gandhi Road, Arakkonam-Tiruthani Road, Arakkonam Taluk, to an extent of 1170 sq.ft. Subsequently, he had executed a settlement deed in respect of the subject property in favour of his sister viz., D.Divya. In turn the said D.Divya had executed a settlement deed in favour of the petitioner in respect of the property, which was purchased by the petitioner. Accordingly, the petitioner and his sister had mutually exchanged their properties for suit their convenience. In between the petitioner's land and road, there is a land, which is classified as battai poromboke, which serves as an access road to the petitioner's property. The access road is situated in T.S.No.37 and it is classified as Battai Poromboke.

4. In fact, the petitioner filed a writ petition before this Court in W.P.No.9817 of 2017 to remove the encroachers in the said land. Thereafter, the encroachers were removed by the respondents. The petitioner submitted an application for planning permission. However, it was returned on the ground that the petitioner failed to produce the patta. After enclosing the patta, once again, the petitioner re-submitted the



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application for planning permission. The fourth respondent directed the petitioner to obtain No Objection Certificate from the third respondent for using the land which is situated in front of his plot as a road to access his house. Therefore, the petitioner submitted an application seeking No Objection Certificate for using the Battai Poromboke land situated in S.F.No.37 as a road. The said request was rejected by proceedings dated 10.07.2023 on the ground that the said land is going to be utilized for the construction of a Primary Health Centre. Already a proposal was sent and a tender notification for construction of Primary Health Centre was also floated.

5. The petitioner would submit that there is no access from his plot to the main road. The subject land is classified as Battai Poromboke and it can only be used as a road. This classification cannot be changed for the construction of a Primary Health Centre. The petitioner also produced photographs showing that there is no other access for him to reach the main road.

6. A perusal of the counter filed by the fourth respondent and the submissions of the learned Standing Counsel for the fourth



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respondent reveals that the land comprised in T.S.No.37 is classified as

Battai Poromboke admeasuring 650 sq.mt, which is situated in front of the petitioner's plot and adjacent to the main road. It is vested with the fourth respondent. While being so, the fourth respondent passed a resolution No.140, thereby resolved to issue a No Objection Certificate for 14 ½ cents of land comprised in T.S.No.37 to be used for construction of an Urban Primary Health Centre for the benefits of the general public.

7. The fourth respondent, by its communication, dated 02.09.2022, after conducting necessary surveys for sub-division and also for other purposes, had recommended the transfer of 590 sq.mt of the said land from the municipality for the purpose of construction of the Urban Primary Health Care Centre. In fact, objections were invited from the public and as no objections were raised by the public, the Director of Municipal Administration, by its communication dated 18.06.2023, selected the subject property for the construction of a new Urban Primary Health Care Centre at an estimated cost of 1.20 crores. Subsequently, a detailed project report was requested from the selected local bodies for administrative sanction to be submitted by 26.06.2023. By its



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proceedings dated 17.07.2023, the Director of Municipal Administration accorded sanction for construction of the Urban Primary Health Care Centre. Accordingly, by a report dated 21.08.2023, the fourth respondent had forwarded a detailed report for construction of Urban Primary Health Care Centre. Thereafter, by the proceedings dated 06.10.2023, the Chief Engineer, O/o. The Directorate of Municipal Administration accorded technical sanction for the project. Subsequently, the fourth respondent floated a tender notification for the construction of Urban Primary Health Care Centre at a cost of Rs.1.20 crores.

8. That apart, on perusal of the photographs produced by the petitioner as well as the fourth respondent, it is clear that the petitioner owned a house plot, adjacent to which lies another plot owned by his sister which was settled by him. Beyond the sister's plot is another plot situated adjacent to Rajendren Giri Singh road. In between the plot belonging to the petitioner's sister and the plot adjacent to Rajendran Giri Singh Road, a compound wall has been erected. Initially, the petitioner had access to Rajendran Giri Singh Road through the said plot. But it is a patta land and in order to protect the same he



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wants to access to the Tirutani main road through the subject land, which is now allotted for construction of Urban Primary Health Care Centre comprised in T.S.No.37.

9. Therefore, the application submitted by the petitioner seeking No Objection Certificate to use the subject land as a road is rightly rejected by the third respondent and this Court finds no infirmity or illegality in the order passed by the third respondent. Thus, the writ petition is devoid of merits and is liable to be dismissed. Accordingly, this writ petition stands dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

19.10.2024

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

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Note : Issue order copy on or before 02.01.2025

To

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Chennai – 600 009.



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G.K.ILANTHIRAIYAN, J.

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