



W.P.No.334 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2024

CORAM

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

W.P.No.334 of 2020
and
W.M.P.No.382 of 2020

Sri Bannari Amman Blue Metals,
Rep by its Proprietrix Tmt.K. Ratinam,
Marpparai Village,
Tiruchengode Taluk,
Namakkal District.

.... Petitioner

Vs

1.The President,
Marapparai Panchayat Union,
Marapparai,
Tiruchengode Taluk,
Namakkal District.

2.The Commissioner,
Mallasamudhiram Panchayat Union,
Mallasamudhiram,
Tiruchengode Taluk,
Namakkal District.

3.The Deputy Director of Town and Country Planning,
Salem Region,
No 5, Sannathi Street,
Subramani Nagar, Sooramangalam
Salem - 636005.

4. M.T.Palanisamy



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5. The Sub Registrar,
Office of the Sub Registrar,
Tiruchengode.

6. M.Muthukrishnan
(R6-impleaded as per order dated
29.10.2024 in W.M.P.No.2816 of 2021
in W.P.No.334 of 2020)

.... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorari, calling for the records on the file of the third respondent in relation to the grant of layout approval for the Punjai land comprised in Survey No 203/3A1 and 204/3 in Layout approval No 142/2018 dated 28.02.2018 situate in Marappari Village, Tiruchengode Taluk and Namakkal District in favour of the 4th respondent herein, who had converted the said land into house sites christened as Sri Sakthi Ganapathi Nagar, by considering the petitioner's representation dated 06.10.2019, quash the same.

For Petitioner : Mr.S.Senthil
For R1, R3 & R5 : Mr.S.Arumugam
Government Advocate
For R4 & R6 : Mr.M.Guruprasad

ORDER

This Writ Petition has been filed challenging the layout approval for the land comprised in survey Nos.203/3A1 and 204/3 in layout approval No.142 of 2018 dated 28.02.2018 on the file of the third respondent granted in favour of the fourth respondent.

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 petitioner is the absolute owner of the land comprised in survey No.203/2A3 admeasuring an extent of 1 acre and 4 cents and the land comprised in survey No.203/3A2 admeasuring an extent of 2 acres and 33 cents, situated in Marapparai Village, Tiruchengode Taluk, Namakkal District. The petitioner had installed stone crushers in the above said land in the name of 'Sri Bannari Amman Blue Metals'. He constructed the entire building for this purpose and were approved on 15.05.1992 by the second respondent. The petitioner also obtained the requisite consent from the Tamil Nadu Pollution Control Board for operating the crusher in the said patta lands under the provisions of the Air (Prevention and Control of Pollution) Act 1981. Till today, the petitioner is operating the crusher in his patta land. While granting the license, there are no house or buildings or layout sites within a radial distance of 500 meters from the petitioner's stone crusher.

4. On perusal of the proceedings from the Tamil Nadu Pollution Control Board in B.P.Ms.No.4, dated 02.07.2004, it is clearly stated in Clause 2.1 that no new/proposed stone crushers should be



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located within 500 meters from any National Highways or State Highways or inhabited site or places of public and religious importance.

While being so, the fourth respondent purchased the adjacent land comprised in survey No.203/3A1 admeasuring an extent of 0.49.0 hectare with a kist of Rs.1.55, the land comprised in survey No.203/3B admeasuring an extent of 0.03.5 hectare with a kist of Rs.0.11 and land comprised in survey No.204/3 admeasuring an extent of 0.35.5 hectare with a kist of Rs.1.37, by way of a sale deed dated 22.04.2013 registered vide document No.3511 of 2013. It is classified as Punjai land and it was cultivated by the vendors of the fourth respondent. Further, after the purchase, the fourth respondent intended to convert the same as residential plots in the name and style of 'Sri Sakthi Ganapathi Nagar' and applied for layout approval in the year 2016. However, the layout was not considered for approval and thereafter, the fourth respondent had applied for regularization of the unapproved layout under the Tamil Nadu Regularization of Unapproved Lay-outs and Plots Rules, 2017. On receipt of such application, the layout was regularized on 28.02.2018.

5. A perusal of the counter filed by the third respondent and



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the submissions of the learned Government Advocate, reveals that the third respondent, on receipt of the application for regularization of the unapproved layout, made an inspection on the subject property on 12.01.2018 and found that there is no vulnerabilities like water bodies in 15 meter radius, railway line in 30 meter radius, burial ground in 90 meter radius etc. Therefore, the layout was regularized on 28.02.2018. As per G.O.Ms.No.78, Housing and Urban Development (UD4(3)) Department, dated 04.05.2017, notification was issued under Section 113 of the Tamil Nadu Regularization of Unapproved Plots and Layouts Rules 2017, read with Section 122 of the Tamil Nadu Town and Country Planning Act, 1977. Rule 4 and 11 are as follows :

“Restrictions for Regularization of unapproved plots and layouts.

(1) No plot or layout in part or whole, which is located in public water body like Channel, Canal, Tank, Lake, River, etc. shall be eligible for regularization.

(2) No plot or layout in part or whole in Government Poramboke land shall be eligible for regularization.

(3) No plot or layout in Open Space Reservation (OSR) land, park or play field reserved in any approved layout or sub-division shall be considered for regularization.



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(4) Vacant plots blocking access to surrounding lands which do not have any other means of access are not eligible for regularization.

(5) No plot or layout in part or whole, lying in the lands affected by the alignments of proposed road or rail corridors and street alignments specified in the development of plans shall be regularized.

(6) No plot with any encroachment on to a public road or street or on any other land over which the applicant does not possess ownership right and lands affected by the repealed Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 (Tamil Nadu Act 24 of 1978) shall be considered for regularization.

(7) No plot or layout in part or whole, lying in the lands below the alignment of high tension and extra high voltage electric line including tower lines shall be regularized.”

6. The location of any building within a radius of 500 meters from store crusher is not suitable for habitation and it is not also suitable on the safety aspect. Rule 36(1-A)(a) of the Tamil Nadu Minor Mineral Concession Rules, 1959, stipulates that no new layout, building plan falling within 300 meters from any quarry should be given accorded with approval by any agency. Unfortunately, without considering the Tamil Nadu Minor Mineral Concession Rules, 1959, the third respondent



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regularized the unapproved layout approval in approval No.142 of 2018 on 28.02.2018. Admittedly, the fourth respondent formed a layout in the year 2017. The subject land was purchased by him on 22.04.2013. The said unapproved layout was regularized only on 28.02.2018 under the approval No.142 of 2018. Therefore, much prior to the layout, the petitioner formed Blue Metal Crusher in his land, after obtaining no objection certificate and license from all the concerned authorities.

7. However, the Tamil Nadu Pollution Control Board, by its proceedings in B.P.Ms.No.4, dated 02.07.2004, clearly states that there shall be no stone crusher within 500 meter radius from any inhabited site or places of public and religious importance. Therefore, the third respondent ought not to have regularized the unapproved layout in respect of the adjacent land, which is situated within 300 meter radius of the petitioner's land, comprised in survey Nos.203/3A1, 203/3B and 204/3 situated at Marapparai Village, Tiruchengode, Namakkal District. It shows that the third respondent, without even conducting any inspection of the subject land as contemplated under Rule 14(3) of the Tamil Nadu Regularization of Unapproved Lay-outs and Plots Rules, 2017, regularized the unapproved layout on 28.02.2018. The learned



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Government Advocate also submitted that, in accordance with the law of approval, there is a rule that allows for revision before the Government.

8. On perusal of the layout approval, it shows that the third respondent, without even conducting any inspection on the application submitted by the fourth respondent seeking approval for unapproved layout, regularized the unapproved layout by an order dated 28.02.2018. Therefore, it is a clear violation of the proceedings of the Tamil Nadu Pollution Control Board in B.P.Ms.No.4, dated 02.07.2004 and Rule 14(3) of the Tamil Nadu Regularization of the Unapproved Layouts and Plots Rules, 2017. Further, the fourth respondent has also failed to obtain a certificate from the local bodies to the effect that the proposed site is not within the radius of 500 meter from the boundary of live stone crushing unit as laid down in Sl.No.12 of the Tamil Nadu Change of Land Use (from Agriculture to Non-Agriculture Purposes in non-planning areas).

9. In view of the above, the order impugned in this writ petition cannot be sustained and is liable to be quashed. Accordingly, the



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impugned layout approval No.142 of 2018, dated 28.02.2018, is hereby set aside and the writ petition is allowed. Consequently, connected miscellaneous petition is closed. No costs.

29.10.2024
(2/2)

Internet : Yes
Index : Yes/No
Speaking order/Non-speaking order
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To

1.The President,
Marapparai Panchayat Union,
Marapparai,
Tiruchengode Taluk,
Namakkal District.

2.The Commissioner,
Mallasamudhiram Panchayat Union,
Mallasamudhiram,
Tiruchengode Taluk,
Namakkal District.

3.The Deputy Director of Town and Country Planning,
Salem Region,
No 5, Sannathi Street,
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Salem - 636005.



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G.K.ILANTHIRAIYAN, J.

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4.The Sub Registrar,
Office of the Sub Registrar,
Tiruchengode.

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