



W.P.No.439 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 19.03.2024

CORAM :

THE HON'BLE MR. JUSTICE S.S.SUNDAR
AND
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

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A.Peer Mohammed .. Petitioner

v.

1. Chennai Metropolitan Development Authority
“Thalamuthu Natarajan Maaligai”
No.1, Gandhi Irwin Road, Egmore
Chennai 600 008

2. The Greater Chennai Corporation
rep.by Commissioner
Ripon Building
Chennai 600 003

3. The Chennai Corporation
Zone-VII, Ambattur
Chennai 600 053

4. A.Mohammed Shah .. Respondents

Writ Petition filed under Article 226 of the Constitution of India,
praying for issuance of a Writ of Mandamus, directing the respondents 1 to



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3 to take action against the unauthorized constructions of the 4th respondent based on the representation of the petitioner dated 14.10.2023.

For Petitioner :: Mr.V.Karthikeyan

For Respondents :: Mr.Y.Bhuvanesh Kumar
 Standing Counsel for R1
 Mr.D.B.R.Prabhu
 Standing Counsel for R2 & R3
 Mr.P.S.Ganesh for R4

ORDER

(Order of the Court was made by S.S.SUNDAR,J.)

The petitioner has filed this writ petition for issuance of a mandamus directing the respondents 1 to 3 to take action against the unauthorized constructions made by the fourth respondent by considering his representation dated 14.10.2023.

2. The petitioner has acquired a parcel of land measuring about 3749 sq.ft., in Old Survey No.299, T.S.No.3/6, Block No.72 in Ambattur Village. It is the case of petitioner that the entire land in Old Survey No.299 is classified as 'Industrial Zone' by the first respondent. It is the case of



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petitioner that the petitioner has established his business dealing with iron scrap. It is stated by the petitioner that as per the master plan, the petitioner has invested huge money to commence his industrial activity. The petitioner has also applied for planning permission before the second respondent and obtained no objection certificates from the other statutory authorities for grant of planning permission.

3. The grievance of the petitioner is that the fourth respondent, who is the owner of adjacent land, is objecting to the construction put up by the petitioner for his industrial activity. Since the petitioner's industrial activity is permissible inside the Industrial Zone, the objection by the private respondent in getting permission for the petitioner's industrial activity has caused great inconvenience to the petitioner. In that context, the petitioner further states that the fourth respondent, who is putting up construction for a residential building, cannot be permitted to proceed with his construction, since he objects to the development of the site by the petitioner for his industrial activity.



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4. The learned counsel appearing for the petitioner has pointed out that the fourth respondent has already filed a civil suit in O.S.No.121 of 2016 before the District Munsif Court at Ambattur for an injunction restraining the petitioner (first defendant) from commencing any business in iron scrap (kayalan kadai) on the southern side of the suit property that belongs to the petitioner. The learned counsel for the petitioner has pleaded that the fourth respondent cannot be permitted to put up a residential building in the 'Industrial Zone', as the fourth respondent is now preventing the petitioner from carrying on his industrial activity. The learned counsel for petitioner, referring to Rule 33 of the Tamil Nadu Combined Development and Building Rules, 2019 and the communication which he has received from the official respondents, reiterates that the entire property in Old Survey No.299 is classified as an 'Industrial Zone'.

5. It is seen from the plaint and other materials available on record that the petitioner is carrying on business in iron scrap. A suit has been filed by the fourth respondent alleging public nuisance on account of the huge volume of scrap being handled by the petitioner. As per Appendix-XVIII of



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the Tamil Nadu Combined Development and Building Rules, 2019, it is seen that in approved layouts residential, commercial, institutional and other activities are permitted. Similarly, all use permissible in residential and commercial use zones, are permissible in a zone which is classified as 'Industrial Zone'. From Rule 33 and Appendix-XVIII of the Tamil Nadu Combined Development and Building Rules, the learned counsel for the petitioner admits that the construction of residential house is not prohibited in an industrial zone. Having admitted this position, the counsel states that the petitioner has serious objections, as the fourth respondent prevents the petitioner from using his property for commercial/industrial purpose. On account of the suit filed by the fourth respondent, the counsel for the petitioner states that the fourth respondent, having regard to his conduct in filing the said suit, cannot be shown any indulgence.

6. This Court is unable to accept the contentions of the learned counsel for the petitioner. When the petitioner admits that the residential construction put up by the fourth respondent is permissible in an industrial zone, he cannot file this writ petition for directing the official respondents to



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take action against the residential construction put up by the fourth respondent. When no statutory rule or regulation is pointed out before this Court that the construction of residential house is prohibited in an industrial zone and the fourth respondent has also produced before this Court the copy of approved building plan permitting his construction by the competent authority, the prayer in the writ petition cannot be countenanced. Therefore, finding no merits whatsoever, this writ petition is dismissed. No order as to costs.

Index : yes/no

(S.S.S.R.,J.)

(N.S.,J.)

Neutral citation : yes/no

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SS

To

1. The Member Secretary
Chennai Metropolitan Development Authority
Thalamuthu Natarajan Maaligai
No.1, Gandhi Irwin Road, Egmore
Chennai 600 008

2. The Commissioner
Greater Chennai Corporation
Ripon Building
Chennai 600 003



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3. The Assistant Engineer
Greater Chennai Corporation
Zone-VII, Ambattur
Chennai 600 053



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S.S.SUNDAR,J.

AND

N.SENTHILKUMAR,J.

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