



W.P.No.1534 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P. No.1534 of 2024 and
W.M.P.No.2101 of 2024

K.Jagadeesan

...

Petitioner

Vs.

- 1 The Deputy Director of Town
And Country Planning,
Office Of District Town And
Country Planning,
Tiruppur District.
- 2 The District Collector,
Tiruppur District.
- 3 Tamil Nadu Pollution Control Board,
Rep. by its Chairman,
76, Annasalai, Guindy,
Chennai- 032.
- 4 The Tashildar
Dharapuram Taluk,
Tiruppur District.
- 5 The Block Development Officer,
Dharapuram,
Tiruppur District.



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6 The Dhalavoipattinam Panchayat,
Rep. by its President
Dhalavoipattinam Village,
Dharapuram Taluk,
Tiruppur District.

7 P.Murugasen,

8 M.shanmugam ... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of the 1st Respondent in his proceedings Na.Ka.No.1406/ 2023 / Thima signed on 05.12.2023 and quash the same and consequently direct the 1st respondent to cancel the layout approval in Ma.Va /Na.U(Thi.Maa) No.303/ 2021 dated 25.11.2021.

For Petitioner	:	Mr.N.Manoharan for Mr.N.Ponraj
For Respondents		
For R1, R2 & R4	:	Mr.S.Nanmaran, Special Government Pleader
For R5 & R6	:	Mr.C.Jayaprakash, Government Advocate

ORDER

The petitioner who is running a brick kiln chamber at R.S.No.141 of Dhalavoipattinam Village of Dharapuram Taluk, Tiruppur has filed this Writ Petition, objecting the lay out approval granted to the adjacent lands



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belonging to the Respondents 7 and 8 vide impugned orders dated 25.11.2021.

2. Earlier the petitioner has filed a Writ Petition in W.P.No.11861 of 2023, to consider the representation made by him on 25.01.2023 with regard to the cancellation of lay out approval that was granted on 25.11.2021 wherein the petitioner has stated that there cannot be any residence within a distance of 2 km from the brick kiln. The said Writ Petition was disposed on 18.04.2023, directing the petitioner to make a fresh representation to the 1st respondent along with relevant documents. After considering the representation of the petitioner in pursuant to the above direction, the 1st respondent passed an order on 05.12.2023 by rejecting the objection of the petitioner and upholding the approval already granted. The present Writ Petition is filed challenging the same.

3. Mr.N.Manoharan, learned counsel for the petitioner submitted that the order has not been passed taking into consideration of the Rules and Regulations in force and it overlooked the guidelines contemplated for



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establishing the brick kiln given in the order of the Division Bench of this Court in W.P.No.1064 of 2009, dated 23.10.2009. It is further submitted that the lay out approval has been given totally in contradiction to the existing Rules and Regulations and hence it is liable to be set aside.

4. The petitioner has not been disturbed from continuing his brick kiln in the same place where he is now functioning, though the approval has been given for the adjacent properties. This petition is not filed as a Public Interest Litigation even though it is alleged that public interest is affected. The petitioner has filed this petition as though his personal right has been infringed due to the action of the 1st respondent.

5. It is the submission of the learned counsel for the petitioner that the access for the above plots in the lay out is prevented from the lands belonging to the petitioner and in this connection a civil suit is pending. But the said issue cannot be dealt in this Writ Petition. The present Writ Petition has been filed by challenging the order dated 05.12.2023, which has been passed on the representation given by the petitioner.



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6. Mr.S.Nanmaran, learned Special Government Pleader appearing for the Respondents 1, 2 and 4 submitted that even if the petitioner's claim that he is an aggrieved person, he is not deprived from seeking any relief by invoking the provisions under the Tamil Nadu Town and Country Planning Act, 1971 by filing an appeal to the appellate Authority.

7. The petitioner has filed the Writ Petition without working out the efficacious statutory remedy, this Writ Petition is not maintainable. However, the petitioner is at liberty to file an appeal before the appropriate authority as contemplated under Section 76 of the Tamil Nadu Town and Country Planning Act, 1971.

8. With the above observation, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes / No
Speaking order / Non-speaking order
vum

Note: Registry is directed to return the original documents forthwith after substituting the same with the certified copies.



WEB COPY



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R.N.MANJULA ,J.

vum

To:

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And Country Planning,
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