



W.P(MD)No.4253 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.04.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.4253 of 2024

and

W.M.P.(MD)No.4095 of 2024

P.G.Anandhi

... Petitioner

Vs.

1. The Director of Town and Country Planning,
O/o.The Director of Town and Country Planning,
2nd to 4th Floor, C and E Road, Koyambedu,
Chennai - 600 017.

2.The Assistant Director / Member Secretary (I/c),
O/o.The District Town and Country Planning,
Sector 6, Anaiyur - Mudakkathan Main Road,
Koodal Pudur, Madurai - 625 017.

3.S.Balamurugan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 2nd respondent in Na.Ka.No.3935/2023/Ma.Thi.2 dated 24.01.2024 and quash the same as illegal and unconstitutional and consequently directing the respondents to permit the petitioner to continue further construction of commercial building in respect of



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the property comprised in New S.No.109/2E3B and 111/10 (Old Survey Nos.111/2A and 109/2E3) situated at Paravai Bit 2 Village, Madurai North Taluk, Madurai District based on the order passed by the 2nd respondent in SWP/BPA/008720/2023 dated 04.08.2023.

For Petitioner : Mr.G.Prabhu Rajadurai,
For Mr.K.Muthumalai.

For Respondents : Mr.G.V.Vairam Santhosh,
Addl. Government Pleader for R1 & R2.
Mr.R.J.Karthick for R3.

ORDER

Heard the learned counsel on either side.

2.The writ petitioner purchased one acre and two cents of land vide sale deed dated 05.06.2018 from M/s.GHCL Limited. Patta was mutated in favour of the petitioner in the year 2020. The petitioner subsequently applied to the Town and Country Planning Department and got planning approval for constructing a marriage hall. Building approval was also obtained from the local body. The petitioner begun to put up construction.



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3.At this stage, the third respondent herein lodged complaint before the jurisdictional Revenue Divisional Officer alleging that the petitioner's vendor had committed breach of the mandatory provisions of the Tamil Nadu Land Reforms (Fixation and Ceiling on Land) Act, 1961. The case of the third respondent is that after obtaining exemption from the operation of land reforms laws, the petitioner's vendor had breached the same. The third respondent parallelly sent a complaint to the second respondent pointing out that enquiry is pending in this regard. Taking cognizance of the said complaint lodged by the third respondent, the second respondent issued the impugned restraint order on 24.01.2024 calling upon the petitioner to stop further construction. Challenging the same, this writ petition came to be filed.

4.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant relief as prayed for.

5.The learned Additional Government Pleader for the respondents 1 and 2 as well as the learned counsel for the third respondent submitted that interference is not warranted. It is pointed out that part of the land purchased by the petitioner has actually vested with the Government. My attention is



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drawn to the proceedings of the District Collector made on 24.07.2018 and the interim stay granted by the Hon'ble Division Bench in W.A.(MD)No.150 of 2021 on 02.02.2021. They called upon this Court to dismiss the writ petition.

6.I carefully considered the rival contentions and went through the materials on record. I repeatedly called upon the learned Additional Government Pleader to draw my attention to the relevant provision under which the impugned communication has been issued. The second respondent is tracing his power to Section 57 of the Tamil Nadu Town and Country Planning Act, 1971. The said provision enables the competent authority to stop unauthorized development. In this case, *prima facie*, I am not able to notice any unauthorized development. The petitioner is having patta in her favour. She obtained planning approval. She has also taken building approval.

7.The proceedings issued by the District Collector on which the third respondent is placing heavy reliance was issued subsequent to the purchase of the land by the petitioner from her vender. Before the Hon'ble Division Bench granted interim stay, patta was mutated in favour of the petitioner. The petitioner was not shown as party to the writ appeal proceedings. The petitioner appears to be a bonafide purchaser for valuable consideration. In any



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event, final order is yet to be passed as against the petitioner. Neither the Government nor the Revenue Divisional Officer have put the petitioner on notice or passed any final order. Therefore, at this stage, the second respondent need not have and ought not to have issued the impugned restraint order.

8.In this view of the matter, the impugned proceedings stand quashed. It is however made it clear that the outcome of this writ petition will not have any bearing on the complaint lodged by the third respondent before the jurisdictional Revenue Divisional Officer. The petitioner is putting up further construction at her own risk. It is for the petitioner to counter the complaint of the third respondent in the manner known to law.

9.This writ petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

04.04.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
ias

G.R.SWAMINATHAN, J.



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WEB COPY

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