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W.P.(MD)NO.12468 OF 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 23.01.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.12468 of 2021 AND

W.M.P.(MD)Nos.9769 & 12774 of 2021

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... Petitioner

Vs.

1. Tiruchirappalli District Town Planning Authority,

Rep. by its member / Secretary,

Khajamalai Main Road, Khajamalai,

Tiruchirappalli.

2. The Block Development Officer,

Andanallur Union, Andanallur,

Srirangam Taluk, Tiruchirappalli.

3. The President,

Kambarasampettai Panchayat,

Srirangam Taluk,

Tiruchirappalli District.

4. T.Balasubramani,

Rep. by his power agent MU.Arivazhagan

5. T.Ponnagnan

(R-5 is suo motu impleaded vide order dated 11.01.2024)

... Respondents



Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of proceedings pertaining to Na.Ka.No.1285/2020/ThiMa.3 dated 24.06.2021 on the file of the first respondent revoking layout approval to Ganapathi Nagar South Extension II in Kambarasampettai Village, Srirangam Taluk, Tiruchirappalli and to quash the same.

For Petitioner : Mr.V.Illanchezian

For R-1 : Mr.K.S.Selvaganesan,
Additional Government Pleader.

For R-2 & R-3 : Mr.A.K.Manikam

For R-5 : Mr.D.Senthil

* * *

ORDER

Heard both sides.

2. One Thangaraju owned 1 acre and 26 cents of land in Andanallur Village. He was having two wives. Through the first wife, the fifth respondent Ponnagnan was born. Through the second wife Lakshmi, two sons were born. The said Thangaraju passed away. His sons born through the second wife sold 63 cents of land in favour of Balasubramani. The said Balasubramani in turn appointed one Arivazhagan, S/o.Muthusamy as his Power Agent to develop the



property. The said Arivazhagan developed the property and sold the plot No.13 in favour of the petitioner herein on 23.11.2012.

3. The petitioner thereafter obtained approval and put up a residential house also. A copy of the photograph of the petitioner's residential house has been enclosed in the typed set of papers. At this stage, the fifth respondent herein complained to the first respondent and pointed out that the layout approval was given in violation of the injunction order granted in his favour in O.S.No.72 of 2005 on the file of the District Munsif Court, Trichy. The planning authority also felt that the applicant who obtained approval did not have the right over the entire extent of 63 cents of land. In that view of the matter, the layout approval was cancelled on 24.06.2021. Challenging the same, the present writ petition came to be filed.

4. The learned counsel appearing 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 grant relief as prayed for.

5. I am not in a position to set aside the impugned order for more than one reason. The promoter had filed an appeal questioning the



impugned order in this writ petition. He filed WP(MD)No.24016 of 2022 for disposal of his appeal. On 19.10.2022 this Court directed the disposal of the appeal filed under Section 80 of the Tamil Nadu Town and Country Planning Act. Therefore, it is not open to the petitioner herein to maintain the challenge in the present form.

6. At the same time, equities obtaining in this case cannot be lost sight of. It is seen that the petitioner's vendors had purchased the property before the grant of injunction order in the civil suit.

7. Since the petitioner had put up a residence, even while not interfering with the impugned order, I make it clear that the impugned order will abide by the outcome of the civil suit. Liberty is given to the petitioner to file an application for impleading himself in the pending suit. If any such petition is filed, it shall be allowed. The right of the petitioner will abide by the outcome of the civil suit. This writ petition stands disposed of accordingly. The fact that I have not interfered with the impugned order would not mean that the authorities can take coercive action against the petitioner's house. However, the benefit of this order will be available only for the petitioner's house. It will not



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have any bearing in other respects. No costs. Consequently, connected miscellaneous petitions are closed.

23.01.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes/ No

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To:

The member / Secretary,
Tiruchirappalli District Town Planning Authority,
Khajamalai Main Road, Khajamalai,
Tiruchirappalli.



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G.R.SWAMINATHAN,J.

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