



W.P.(MD) No.9343 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.04.2024

CORAM:

THE HONOURABLE **MR.JUSTICE R.SURESH KUMAR**

AND

THE HONOURABLE **MR.JUSTICE G.ARUL MURUGAN**

W.P.(MD)No.9343 of 2014

and

M.P.(MD)Nos.1 and 2 of 2014

RM.Annamalai

... Petitioner

-Vs-

1.The Director of Town and Country Planning,
No.807, Anna Salai, Chennai-600 002.

2.The Deputy Director,
Town and Country Planning,
No.430, Gandhi Salai,
Sivagangai-630 561.

3.The Commissioner,
Devakottai Municipality,
Devakottai-630 302,
Sivagangai District.

4.A.Ramanathan

5.R.Sivagami

6.M.Naganathan

7.K.Deivanai

8.RM.Alamelu

9.RM.Venkatachalam

10.D.Venkatachalam

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the 1st respondent in Na.Ka.No.12753/2012/BA1, dated 10.02.2014 and the consequential impugned order of the 2nd respondent in Na.Ka.No. 1914/2013/CMa3, dated 19.02.2014 and quash the same and consequently, to direct the 2nd respondent herein to initiate action as per his statutory notice dated 31.10.2011 for the unauthorized, defective and offending construction in Guthiraipathai Road, in Block-1, Ward-H of Devakottai Municipality, Sivagangai District within a reasonable time.

For Petitioner : Mr.B.Muruganandham
For R1 & R2 : Mr.P.Thilak Kumar,
Government Pleader
For R3 : Mr.H.Mohammed Imran
For R4 & R5 : Mr.D.Ramesh Kumar
For R6 to R10 : No Appearance

ORDER

[Order of the Court was made by *R.SURESH KUMAR, J.*]

In this Writ Petition, the plan approval given by the 1st respondent, dated 10.02.2014 in favour of the respondents 4 and 5, who constructed multistoried dwelling house complex and consequential proceedings issued by the 2nd respondent dated 19.02.2024, are under challenge.



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2.It is the case of the petitioner as projected by the learned counsel for the petitioner that in the year 2011 itself, such a construction was made of course without getting any approval. Therefore, at that time, he had approached this Court and after getting orders, he made a request to the 1st respondent not to grant any approval without complying the requirements under the Tamil Nadu Town and Country Planning Act, 1971 (hereinafter referred to as 'the Act').

3.Despite his attempt made in this regard, on 10.02.2014, approval order had been given by the 1st respondent by giving such approval to the respondents 4 and 5, of course, with certain conditions. Insofar as the said approval is concerned, it is the grievance of the petitioner that such an approval ought not to have been granted.

4.It is to be noted that the respondents 4 and 5, after having obtained approval, completed the construction and dwelling units seems to have been sold to other private respondents ie., the respondents 6 to 10.

5.Insofar as the grant of such plan approval dated 10.02.2014 and consequential proceedings issued by the 2nd respondent are concerned, they are the



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competent authorities and after having considered the request made by the respondents 4 and 5 to develop the land by putting up construction, such a plan approval since has been issued, it cannot be found fault with, as the said authorities are competent to issue such approval.

6.If at all there has been any violation in making construction by the respondents 4 and 5, which is in violation of either plan approval or the provisions of the Act, it is open to the 1st respondent or the officials working under the 1st respondent to take action by invoking the provisions of the Act.

7.In the absence of any such contravention, it cannot be stated that the order of approval itself ought not to have been granted by the 1st respondent.

8.The reason is that the 1st respondent being the competent authority under the Act is empowered to issue such an approval order, of course, on the basis of the merits of the applications. Having considered the said merits of the application, if such approval is given, the same cannot be found fault with.

9.In view of the above, we feel that the prayer sought for in this Writ Petition cannot be granted. Accordingly, this Writ Petition is liable to be



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dismissed, hence, it is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

[R.S.K., J.] & [G.A.M., J.]
15.04.2024

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

Yuva

To

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