



WP(MD)No.18817 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.18817 of 2015

and

MP(MD)No.1 of 2015

P.Sebastian

.. Petitioner

v.

1.The Director of Town and Country Planning,
O/o.Town and Country Planning,
807, Anna Salai,
Chennai - 600 002.

2.The Chairman of Local Town Planning cum
District Collector,
Madurai District,
Madurai - 625 020.

3.The Member Secretary,
Local Town Planning,
Anna Maligai,
Madurai - 625 002.

4.The Commissioner,
Madurai Corporation,
Anna Maligai,
Madurai - 625 002.



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5.S.Seetharaman

.. Respondents

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PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order in Na.Ka.No.5216/2006/BA1 dated 27.03.2006 passed by the first respondent and the consequential proceedings of the fourth respondent in No.The.Ma.Po.1/09708/07 dated 30.11.2007 and Ka.Ma.No.SE1/18417/08 dated 12.01.2009, quash the same and consequently, directing the respondents to retain the approved layout site plan 125/2003, approved by the first respondent in his proceedings No. 24746/2003/BA1 dated 22.10.2003 by demolishing the constructions carried out in violation of the approved layout site plan No.125/2003 in proceedings No.24746/2003/BA1 dated 22.10.2003 of the first respondent.

For Petitioner : Mrs.M.Padmavathy

For Respondents : Mr.G.V.Vairam Santhosh,
Additional Government Pleader
for R.1 to R.3

Mr.K.Sivabalan for R.4

Mr.T.Antony Arul Raj for R.5



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ORDER

The petitioner is a resident of Madurai and he has purchased a flat in R.S.No.20B/8, 22/2A measuring about 1058 sq.ft in Sector III A, Mithra C Block [Agrini Enclave], based on the layout approved by the first respondent dated 31.07.2003. As against this approved layout, certain constructions were made by the developer compromising the area earmarked for park, school, parking, etc., for which, consequent approvals were also granted. As against the same, the petitioner has moved this writ petition.

2.The very same issue has been raised by Agrini Enclave Houses and Flats Owners' Association in ***WP(MD)No.8630 of 2009***, wherein, this Court has framed the following questions for consideration:-

- (i) Whether places earmarked for parks, school, community hall, etc., can be altered?
- (ii) Whether the authorities are having powers to revise the approved layout?



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(iii) Whether it can be revised without the knowledge of the residents of the layout?

3.In the said case, this Court, by order dated 20.10.2023, after referring to a catena of decisions rendered by the Hon'ble Supreme Court and Hon'ble Division Benches of this Court, has held that the developments in the places earmarked for the primary school, park, community hall and open space as per the original approved layout dated 31.07.2003 have to be treated as unauthorised and are liable to be removed.

4.Since this issue is no more *res integra*, no further order is required to be passed in this writ petition. However, learned Counsel for the fifth respondent submitted that the order passed by this Court in WP(MD)No. 8630 of 2009, dated 20.10.2023, has been stayed by the Division Bench of this Court in WA(MD)Nos.1970, 1979 of 2023 dated 16.11.2023 and requested for adjourning this writ petition till the issue is decided by the Division Bench.



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5.This Court is not inclined to accede this request of the learned Counsel for the fifth respondent. This writ petition is pending from the year 2015 and since this issue has already been decided by this Court, this writ petition stands disposed of in terms of the order passed in WP(MD)No. 8630 of 2009, dated 20.10.2023. It is open to the parties to work out their remedy based on the outcome of WA(MD)Nos.1970, 1979 of 2023.

There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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

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