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W.P.(MD) No.4910 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.01.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR**

W.P.(MD) No.4910 of 2015

Nabeesa @ Ayisha Siddika
rep.by her power agent
S.Mohammed Ismail

... Petitioner

-VS-

1.The Commissioner
City Municipal Corporation
Trichy

2.The Member Secretary
Trichirappalli Local Planning Authority
10, Williams Road
Contonment, Trichy

3.Woraiyur Co-operative Housing
Society Ltd., R.No.1387
rep.by its Secretary
C14-A, 5th Main Road
Ramalinga Nagar
Woraiyur, Trichirappalli-620 003

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the first respondent not to give any building approval for the plots comprised in layout plan No.186/1999 which was declared as null and void in O.S.No.809 of 2010 by the I Additional District Munsif Court, Trichy, on 27.11.2014.

For Petitioner : Mr.N.Mohan

For Respondents : Mr.N.S.Karthikeyan for R1
No appearance for R3
Mr.R.Devaraj for R3

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

Prayer in this writ petition is to direct the first respondent not to give any building approval for the plots comprised in the layout plan No. 186/1999, which was declared as null and void in O.S.No.809 of 2010, by the I Additional District Munsif Court, Trichy, on 27.11.2014.



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2. According to the petitioner, she has purchased a property comprised in Survey Nos.92/1, 93/1 and 93/2 of Pirattiyur Village, Trichy District, measuring an extent of 1.88 Acres, from one Ameetha Begum, under a sale deed dated 10.07.1996.

3. Further, according to the petitioner, the third respondent – Society purchased an extent of 54 Acres in Pirattiyur West Village from various persons and formed a layout consisting 578 plots. In the said layout, the petitioner has also purchased a plot on 05.08.2009. Subsequently, she found that the third respondent – Society, without the knowledge of the petitioner, included her property also, which was purchased by her in the year 1996, in the layout. Therefore, the petitioner filed a suit in O.S.No.809 of 2010, on the file of the District Munsif Court, Trichy, seeking the reliefs of declaration and permanent injunction against the third respondent. The said suit was decreed on 27.11.2014 and the same was confirmed in the first appeal and second appeal. In such circumstances, seeking a direction to the first respondent not to give any building approval in the subject land, the petitioner has filed this writ petition.



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4. A perusal of the papers shows that the suit in O.S.No.809 of 2010, on the file of the I Additional District Munsif Court, Tiruchirappalli, filed by the petitioner against the third respondent – Society for declaration and permanent injunction has been decreed and the first appeal preferred by the third respondent – Society in A.S.No.30 of 2015, on the file of the II Additional Subordinate Court, Trichirappalli, has been dismissed by judgment dated 14.02.2016. In the second appeal in S.A.(MD) No.491 of 2017, filed by the third respondent – Society, they gave an undertaking that they will cancel all the sale deeds executed by them in respect of the suit properties and hand over the possession of the suit properties to the petitioner herein after cancelling the sale deeds or any encumbrance created by them in respect of the suit properties, within a period of three weeks. Recording the said undertaking, the second appeal was disposed of by this Court by Judgment dated 27.02.2020, by modifying the Clause (3) of the decree of the Trial Court to the effect that the layout plan No.186/99 filed by the third respondent – Society and approved by the second respondent herein is invalid in respect of the suit properties alone and it will not be binding on the petitioner herein.



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5. In such circumstances, we are of the view that since the Civil Court's judgment is binding on the parties, the authority concerned has to take note of the Judgment dated 27.02.2020, passed by this Court in S.A.(MD) No.491 of 2017 and take a decision while granting approval for construction of buildings in the subject land, after providing due opportunity to the parties concerned.

6. With the above direction, this writ petition is disposed of. No costs.

[D.K.K., J.]

[M.S.K., J.]

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NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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MUMMINENI SUDHEER KUMAR, J.

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