



W.P(MD).Nos.24826 and 24827 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

**W.P(MD).Nos.24826 and 24827 of 2024
and**

W.M.P(MD).Nos.21148 and 21166 of 2024

D.Karthikeyan

... Petitioner in both petitions

Vs.,

The Commissioner,
Paramakudi Municipality,
Paramakudi, Ramanathapuram District.

... Respondent in both petitions

COMMON PRAYER: Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the entire records in connection with the impugned order passed by the respondent vide proceedings Reference Online Application No.SWP/SCM/DTCP/CMA/00 dated 12.09.2024 and Reference No.Na.Ka.No.860/2022/F1 dated 04.10.2024 and quash the same.

In both petitions

For Petitioner : Mr.Niranjana S.Kumar

For Respondent : Mr.A.Prasanna Rajadurai



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COMMON ORDER

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By consent, these writ petitions are taken up for final disposal at the admission stage itself.

2. W.P(MD).No.24826 of 2024 has been filed challenging the impugned order passed by the respondent cancelling the building plan approval granted to the petitioner.

3. The case of the petitioner is that he purchased the property in question from one N.Saravanan, in the year 2013 and revenue records also stands in his name. According to the petitioner, he is the absolute owner of the said property. Thereafter, he applied for building plan approval and the same was approved under self certification scheme on 29.07.2024. Subsequently, the said approval was cancelled vide impugned order dated 04.10.2024 citing the land was earmarked as Park, without giving opportunity of hearing to the petitioner. It is the contention of the petitioner that in this regard he has already filed a suit in O.S.No.36 of 2022 before the Subordinate Court, Paramakudi, seeking declaration in respect of the property in question. In the said suit, he also filed I.A.No.2 of 2024 seeking injunction. The trial Court granted temporary injunction against the



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respondent vide order dated 30.08.2024. Hence, according to the petitioner, the impugned order is not sustainable.

4. It is the stand of the respondent that the subject property was originally allotted as park in the approval layout and hence, the impugned order does not want any interference.

5. Heard both sides and perused the materials available on record.

6. At the outset, the impugned order passed by the respondent cannot be sustained in the eye of law. The authority has not produced any document to substantiate that the land was allotted to Park, whereas the revenue record stands in the name of the petitioner. That apart, the matter has already been seized by the civil Court, wherein the title has not been decided so far. At this stage, without any positive decision, the respondent cannot pass the impugned order cancelling the approval already granted to the petitioner.

7. Accordingly, the impugned order passed by the respondent in proceedings Reference Online Application No.SWP/SCM/DTCP/CMA/00 is set aside and W.P(MD).No.24826 of 2024 is **allowed**.



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8. As far as W.P(MD).No.24827 is concerned, the very issue is with regard to whether the land in question is allotted to the park or absolute property of the petitioner. That issue has not been decided finally, only interim application has been decided by the civil Court. In such view of the matter, The petitioner is not entitled to put any construction in the property in question, until the civil Court decides the issue finally, except fencing the property.

9. With the above direction, this Writ Petition is **disposed of**.

10. The trial Court shall decide the issue on its own merits without being influenced by the observation made in these writ petitions. The right with regard to the property in question has to be independently established by the parties. No costs. Consequently, connected Miscellaneous Petitions are closed.

21.10.2024

NCC : Yes/No
Index : Yes/No
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N.SATHISH KUMAR, J.

Rmk

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