



W.P.(MD) No.14619 of 2017

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

**W.P.(MD) No.14619 of 2017
and
W.M.P.(MD) No.11461 of 2017**

Devakottai Reality (P) Limited,
rep by its Project Manager,
M.V.Sathiah

... Petitioner

/vs./

The Commissioner of Municipality,
Devakottai Municipality,
Sivagangai District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the proceedings of the impugned order in Na.Ka.No.3100/2016/A1 dated 14.07.17 on the file of the Respondent and the consequent Impugned order in Na.Ka.No. 3100/2016/A1 dated 31.07.17 on the file of the Respondent and quash the same.

For Petitioner : Mr.S.Selva Aditya for
Mr.G.Prabhu Rajadurai
For Respondent : No appearance



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ORDER

The challenge in the writ petition is to an order passed by the respondent directing the petitioner to vacate the portion of its premises, which is being used for parking the vehicles.

2. In spite of notice to the respondent, the respondent had not chosen to appear either in person or through a counsel. The name of the respondent has also been printed in the cause list and they called absent today.

3. The learned counsel for the petitioner would submit that the petitioner owned a commercial complex and had been given a planning permission under the Tamil Nadu Town and Country Planning Act, 1971. He would also submit that one of the conditions of the planning authority was that the petitioner has to provide parking space for the purpose of the vehicles entering the shopping complex and the petitioner had also provided the parking space for the persons using the shopping complex. However, the impugned order had been made at the instance of the lessees of the land belonging to the respondent, who were given the right to collect parking charges.



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4. He would further submit that when the Planning Authority had sanctioned the planning permission subject to provision of parking space for the users of the shopping complex, the respondent cannot unilaterally pass the order calling upon the petitioner to refrain from using the said parking space, as it causes loss to its contractors from collecting the parking fee in the place leased by the Corporation outside the commercial Complex. Therefore, he would submit that the order impugned suffers from material facts apart from having been passed by the respondent without jurisdiction.

5. I have considered the rival submissions made by the learned counsel on either side.

6. Admittedly, the petitioner had been granted the planning permission for putting up the commercial complex on condition that the petitioner shall provided a parking space for the benefit of the users of the commercial complex. A reading of the impugned order suggest that the same has been made in view of the loss that has been caused to its licensees, as they were not able to collect the parking



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fee from the vehicles that are parked inside the petitioner's complex. When a person puts up a commercial space, the Development Control Rules provide for an earmarked parking space within the complex for the users of the said commercial complex. The present order impugned seeks to prohibit the petitioner from allowing to use the parking space by its users of commercial complex. This directly contradicts to the provisions of the Tamil Nadu Town and Country Planning Act, 1971 and the Regulations framed thereunder.

7. In such view of the matter, the order impugned is set aside and the respondent is refrained from making such communication to an approved building/commercial complexes including that of the petitioner. In fine, the Writ Petition stands allowed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
Internet : Yes / No
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K.KUMARESH BABU, J.

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