

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.A. No.505 of 2014 and M.P. No.1 of 2014

S. Viswanathan

Appellant

vs.

1 K. Sri Hari

2 The Commissioner
Coimbatore City Municipal Corporation
Coimbatore 641 001

3 The Town Planning Officer
Coimbatore City Municipal Corporation
Coimbatore 641 001

4 The Assistant Town Planning Officer
Coimbatore City Municipal Corporation
Central Zone
Huzur Road
Coimbatore 641 018

5 M. Udayakumar

Respondents

Writ Appeal preferred under Clause 15 of the Letters Patent against the order dated 08.01.2014 passed in W.P. No.21461 of 2013. This Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus Directing the respondents 1 to 3 not to grant building license / plan approval for construction of a building and take action against the 4th respondent in the event of his attempt to put up any such construction in site No.6 comprised in T.S.No.11/1278 S.F.No.195 Ganapathy Village Coimbatore District by considering the petitioner's representation dated 27.07.2013.

For appellant Mr. P. Saravana Sowmyan

For R1 Mr. N. Manokaran

For RR 2-4 Mr. J. Sathyanarayana Prasad

JUDGMENT

(Judgment of the Court was delivered by SATISH K. AGNIHOTRI, J.)

The instant appeal arises from the order dated 08.01.2014 passed by the Writ Court in W.P. No.21461 of 2013. The fourth respondent in the said writ petition is the appellant herein.

2 For the sake of brevity and clarity, the parties are referred to as per their litigative status in the instant appeal.

3 The first respondent came up with the instant writ petition seeking a direction to the respondents 2 to 4 not to grant building licence/planning approval for construction of a building and take action against the appellant in respect of any construction in Site No.6, comprised in T.S. No.11/1278, S.F. No.195, Ganapathy Village, Coimbatore District, by considering his representation dated 27.07.2013.

4 From a bare perusal of the records, it appears that the land in question is a joint family property and in respect of the said land, a civil suit in O.S. No.1037 of 2010 has been preferred by the first respondent along with one V. Praveen, against the appellant and 11 others, seeking the following reliefs:

- ✓ declaring that the sale deed dated 26.11.2004 executed by the 7th defendant on behalf of the defendants 2,3,5 and 7 in favour of the 1st defendant is null and void and unenforceable;
- ✓ declaring that the sale deed dated 18.02.2005 executed by the 9th defendant on behalf of the defendants 2,3,5 and 7 in favour of the 8th defendant is null and void and unenforceable;
- ✓ declaring that the sale deed dated 10.04.2000 executed by the defendants 3 and 6 in favour of the 10th defendant is null and void and unenforceable;
- ✓ declaring that the sale deed dated 10.04.2000 executed by the defendants 3 and 6 in favour of the 11th defendant is null and void and unenforceable;
- ✓ declaring that the sale deed dated 18.08.2000 executed by the third defendant in favour of the 12th defendant is null and void and unenforceable;
- ✓ to divide the first item of the suit property into 24 equal shares by metes and bounds and allot five such shares to the plaintiffs and also divide the second

item of the suit property into three equal shares by metes and bounds and allot one such share to the second plaintiff and put them in possession thereof; and

- ✓ restraining the defendants, their men and agents from in any way alienating or encumbering the suit property.

5 The Writ Court, by taking cognizance of the aforestated scenario, passed the following order:

"11. The III Additional Sub Court, Coimbatore is directed to dispose of the suit in O.S. No.1037 of 2010, as expeditiously as possible and in any case within a period of six months from the date of receipt of a copy of this order. The application submitted by the fourth respondent before the Local Planning Authority should be kept in abeyance till the disposal of the civil suit in O.S. No.1037 of 2010. The observation made in this order would not stand in the way of the civil court in taking up the matter and deciding the issues on merits and as per law."

6 Looking into the nature of the property, which is pending dispute before the III Additional Sub Court, Coimbatore, it was rightly directed by the Writ Court not to grant any building licence or plan approval, as sought by the first respondent and to keep the application in abeyance, till the disposal of the said civil suit in O.S. No.1037 of 2010. The Writ Court has further directed the III Additional Sub Court, Coimbatore to dispose of O.S. No.1037 of 2010 within a period of six months.

7 We do not find any infirmity or irregularity in the order dated 08.01.2014 passed by the Writ Court, warranting interference. Accordingly, the writ appeal is dismissed. No costs. Connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

cad

To

1 The Commissioner
Coimbatore City Municipal Corporation
Coimbatore 641 001

2 The Town Planning Officer
Coimbatore City Municipal Corporation
Coimbatore 641 001

3 The Assistant Town Planning Officer
Coimbatore City Municipal Corporation
Central Zone
Huzur Road
Coimbatore 641 018

+ 1 cc to M/s. Manokaran, Advocate Sr.8696

+ 1 cc to M/s. P. Saravana Sowmiyan, Advocate Sr.8673

+ 1 cc to M/s. J. Sathayanarayana Prasad, Advocate Sr.8915

W.A. No.505 of 2014

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