

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.08.2015

CORAM

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

W.P. NO.27434 of 2014  
and M.P.Nos.1 and 2 of 2014

1.K.Sadgasivam  
2.K.Ramadoss

.. Petitioners

Versus

- 1.The Commissioner,  
Town and Country Planning,  
807, Anna Salai, Chennai -2.
- 2.The Deputy Director of Town and  
Country Planning,  
Corporation Commercial Complex,  
Dr.Nanjappa Road, Coimbatore.
- 3.The Commissioner,  
Udumalaipet Municipality,  
Udumalaipet,  
Tiruppur District.
- 4.The Tahsildar,  
Udumalaipet,  
Tiruppur District.

.. Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the 1<sup>st</sup> respondent in his proceedings No.Na.Ka.No.7868/2013/TP2 dated 09.05.2013 and quash the same and consequently direct the 1<sup>st</sup> and 2<sup>nd</sup> respondent to delete the petitioners house sites situated in T.S.No.40/1A and 40/1B, Udumalaipet Town and Village, shown as proposed scheme link road in the layout approval granted by 1<sup>st</sup> and 2<sup>nd</sup> respondent.

For Petitioner : Mr.C.Prakasam

For Respondents: Mr.P.Sanjay Gandhi,

Addl. Govt. Pleader for R1, R2 & R4

Mr.P.Srinivas for R3.

## O R D E R

The petitioners made a representation on 13.07.2012 seeking change of user of the land in the proposed plan from road to shop area. The request of the petitioner was rejected by the order impugned on the ground that the proposed road would act as a link road between two other public roads. Challenging the same, the present writ petition has been filed.

2. The learned counsel for the petitioners submitted that the proposed link road belong to the petitioners. Therefore, the order impugned in the writ petition has to be set aside.

3. In the counter affidavit filed by the 2<sup>nd</sup> respondent, in paragraph No.2, it has been stated as follows:

"With regard to the averments made in paragraph 3 of the affidavit, it is submitted that as envisaged under Sections 19,20,21,25,27, 29 and 31 of Town and Country Planning Act 1971, the Town and Country Planning Department has prepared a Detailed Development Plan, D.D.Plan No.5 and got sanctioned during the year 1971. Subsequently, the said Detailed Development plan has been taken up for review and the review work is under process. The Detailed Development Plan will consist earmarking of Open Space Reservation, proposals for Road widening, proposal for new roads and proposals for junction improvements for the roads. The Town and Country Planning Department can designate or reserve or require any land within the jurisdiction of the detailed Development Plan for any use and the land reserved so can be acquired in the interest of the General public as per Sections 36 and 37 of the Town and Country Planning Act 1971. Very particularly, in this Detailed Development Plan a small stretch of area was earmarked for proposed road which will connect to the 40ft wide layout road to the main road. The land earmarked for link road in the Detailed Development plan is owned by the petitioner."

4. The rejection of the request of the petitioner cannot be questioned for the simple reason that it is for the respondents concern to initiate and execute the plan. The petitioners as a matter of right cannot seek deviation of the plan. However in the counter affidavit, it has been admitted that the land earmarked for link road in the detailed development plain is owned by the petitioners. It is trite law that no person shall be deviated with the property except by the procedure established by the law.

5. Accordingly, this writ petition stands disposed of with the observation that in the event of the respondent using the petitioners land as a link road, the same act only be done in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-  
Assistant Registrar

True copy

Sub-Assistant Registrar

vsm

To

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807, Anna Salai, Chennai -2.

2.The Deputy Director of Town and  
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Corporation Commercial Complex,  
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Tiruppur District.

4.The Tahsildar,  
Udumalaipet,  
Tiruppur District.

+1 cc to Mr.C.Prakasam, Advocate sr.45156  
+1 cc to Mr.P.Srinivas, Advocate sr.45004  
+1 cc to the Government Pleader sr.45197

W.P.NO.27434 of 2014

aa10/09/2015