

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:25.11.2015

C O R A M

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.No.12167 of 2003

S. Rangasamy

...Petitioner

Vs.

1. The Commissioner,
Coimbatore Corporation,
Coimbatore.

2. The Assistant Commissioner,
South Zone,
Coimbatore Corporation,
Coimbatore-18.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records relating to letter bearing NO.Ma.Pa.No.47/2002/Ku.Vi.1 dated 30.01.2003 on the file of the second respondent and to quash the same and consequently direct the respondents to grant individual water connection to the petitioner house bearing Door NO.C-16, "Rashmika" Royal Villas, Parsn Sesh Nestle, Nanjundapuram Road, Coimbatore-36.

For Petitioner : Mr. P.Sesubala Raja
For Respondents : Mr.R. Sivakumar

O R D E R

With the consent of the learned counsel appearing on either side, the Writ Petition is taken up for final disposal.

2.Heard Mr.P.Sesubala Raja, learned counsel appearing for the petitioner and Mr.R.Sivakumar, learned counsel appearing for the respondents.

3.In this Writ Petition, the challenge is to a Memo issued by the respondent Corporation refusing to grant an individual water connection to the petitioner's property stating that he is part of Group Housing Scheme.

4.The petitioner would state that he purchased a plot of land, entered into a development agreement with the Builder and constructed individual house, with separate compound wall,

separate electricity connection and is also paying property tax in his name.

5.As seen from the counter affidavit, it appears that the petitioner had put up certain unauthorised constructions in the property, which was deducted by the respondent Corporation and as a result of which action for demolition was initiated, which necessitated the petitioner to approach the Government for regularisation of the unauthorised construction. Accordingly, the Government vide G.O.Ms.No.59 Municipal Administration and Water Supply Department dated 25.07.2006, has regularised the unauthorised construction. With these records, the petitioner submits that his house should be treated as an independent house and separate water connection should be granted.

6.The learned Standing counsel appearing for the respondent Corporation referring to the counter affidavit submits that the petitioner is part of 'Group Development' and apart from individual houses there are multi storied buildings and totally there are 800 tenements in the campus and further it is stated that main pipe line is 600 mtrs away from the petitioners campus and if there is a request for separate connection there will not be sufficient hydraulic pressure. Therefore, the respondents submitted that individual supply cannot be granted.

7.After hearing the learned counsel appearing on either side and after perusing the materials placed on record, it is seen that after the impugned order was issued to the petitioner, the Government vide G.O.Ms.No.59 Municipal Administration and Water Supply Department dated 25.07.2006, has regularised the unauthorised construction and this regularisation order obviously will have the effect only with regard to the petitioner's building, which appears to have been considered as an independent unit. Therefore, the respondent Corporation has to necessarily examine the effect of G.O.Ms.No.59 on the request made by the petitioner for individual connection. That apart, it is stated that the petitioner has purchased the plot of land, has a separate compound wall and boundaries and those things would go to establish that the petitioner's house is a single dwelling unit. In the light of the above, this Court is of the view that the matter has to be remanded to the respondent Corporation for fresh consideration.

8.Accordingly, the petitioner is directed to submit a fresh representation along with copy of Sale Deed, copy of E.B.Card, Property Tax Assessment as well as G.O.Ms.No.59 dated 25.7.2006 and if such representation is given, the respondent Corporation shall consider the same and examine as to whether the petitioner's house could be treated as individual dwelling unit and thereafter proceed to pass appropriate orders on merits and

in accordance with law, as expeditiously as possible, preferably, within a period of six weeks from the date of receipt of representation.

The Writ Petition is disposed of accordingly. No costs.
rpa

-s/d-

Assistant Registrar (CS-VII)

True Copy

Sub-Assistant Registrar

To

1. The Commissioner,
Coimbatore Corporation,
Coimbatore.

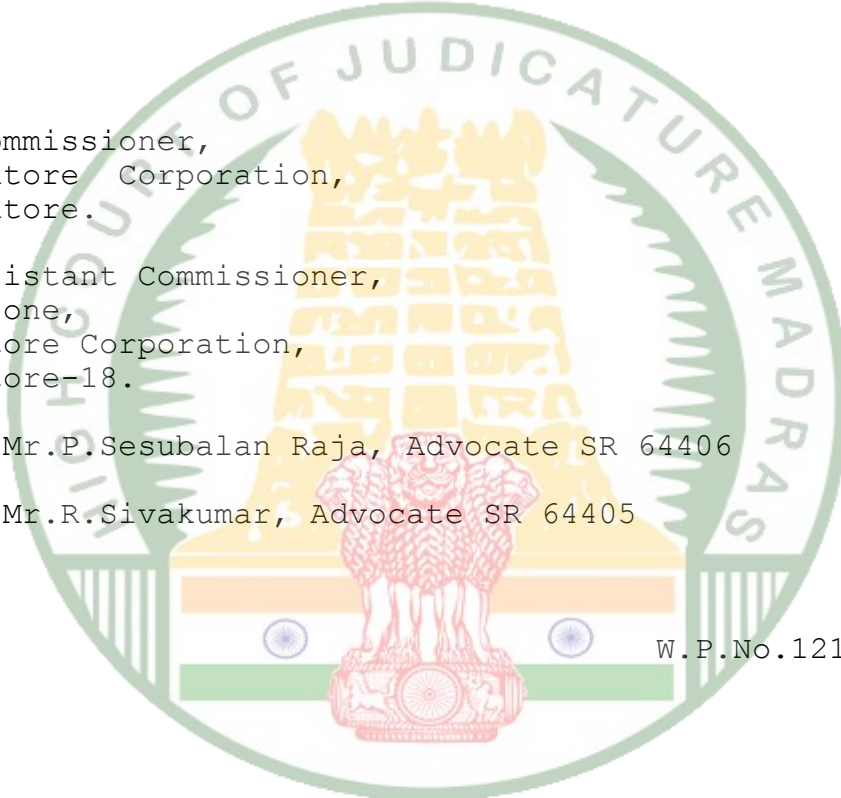
2. The Assistant Commissioner,
South Zone,
Coimbatore Corporation,
Coimbatore-18.

+ 1 cc to Mr.P.Sesubalan Raja, Advocate SR 64406

+ 1 cc to Mr.R.Sivakumar, Advocate SR 64405

sr(co)
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