

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2016

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Writ Petition Nos.17325 & 29393 of 2016

M.Saravanakumar

.. Petitioner in W.P.No.17325

Amsaveni Layout Welfare Association,
a Registered Association No.152/2016
Rep.by its President
K.Govindarajulu
No.9/5, D2, Amsaveni Layout
Second Street, Housing Unit,
Goundanpalayam
Coimbatore 641 030.

.. Petitioner in W.P.No.29393

Versus

- 1.The Commissioner of Town
and Country Planning,
Government of Tamil Nadu,
Ezhilagam, Chepauk, Chennai 600 005.
 - 2.Coimbatore Local Development Authority,
Municipal Commercial Corporation Complex,
Sivananda Colony, Coimbatore 641 012.
 - 3.The Chairman/Managing Director,
Tamil Nadu Housing Board, Nandanam,
Chennai 600 035.
 - 4.The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore 641 001.
 - 5.The Executive Engineer,
Tamil Nadu Housing Board,
Tatabad, Coimbatore.
- .. Respondents in both W.Ps.

W.P.No.17325 of 2016: Petition filed under Article 226 of the constitution of India to issue a Writ of Mandamus directing the respondents 1, 2 and 4 to take appropriate action as against the respondents 3 and 5, from putting up any construction bearing Survey No.49/2 in Goundenpalayam Village, Coimbatore

City, in the name of 2000 Multi Storied Tamil Nadu Government Rental Housing Scheme (TNGRHS) at Goundenpalayam, Coimbatore, Tamil Nadu, within a time frame.

W.P.No.29393 of 2016: Petition filed under Article 226 of the constitution of India to issue a Writ of Mandamus directing the respondents 1,2 and 4 to take appropriate action as against the respondents 3 and 5, from putting up any construction bearing Survey No.50/2 in Amsaveni Tamil Nadu Government Rental Housing Scheme (TNGRHS) at Goundenpalayam, Coimbatore, Tamil Nadu, within a time frame.

For Petitioner : Mr. S. Subbiah
(both W.Ps)
For R1 and R2 : Mr.A.Kumar
Spl.Govt.Pleader
For R3 & R5 : Mr.V. Aiyathurai, Additional
Advocate General
for Mr. Anandamoorthy,
Standing Counsel
For R4 : Mr.I.Satyanarayana Prasad
(in W.P.No.17325/2016)
For R4 : Mr. R. Sivakumar
(In W.P.No.29393/2016)

C O M M O N O R D E R

These Writ Petitions have been filed seeking for issuance of a Writ of Mandamus directing the respondents 1, 2 and 4 to take appropriate action as against the respondents 3 and 5, from putting up any construction in the land comprised in Survey No.49/2 and 50/2 respectively in Amsaveni Nagar Layout, Coimbatore city, in the name of 1848 multi storied Tamil Nadu Government Rental Housing Scheme, Goundenpalayam Village, Coimbatore, within a time frame.

2. When WP No. 29393 of 2016 was taken up for hearing on 23.08.2016, it was submitted on behalf of the petitioners that the suits in O.S. Nos. 287 of 2016 and 311 of 2016 filed in connection with the very same dispute on the file of the learned Principal District Judge, Coimbatore has been withdrawn and that the respondents 3 and 5, in the guise of putting up a new construction, are blocking the existing 40 feet road. In reply, the learned Additional Advocate General appearing for the respondents 3 and 5 would contend that there is an alternative pathway provided and only after getting clearance from all the concerned authorities, the new construction is being put up. The learned Additional Advocate General therefore sought time to file counter. Accordingly, the writ petition was

directed to be posted on 15.09.2016.

3. When the writ petitions are taken up for hearing today, it is represented on behalf of the respondents 3 and 5 that as per the case status report obtained by them, the suits were not withdrawn by the petitioners, as alleged and they are pending. It is further stated that out of the two cases, one case is posted for hearing on 06.10.2016 and the another case is posted for hearing on 29.11.2016. Hence, when already the civil suits are pending in which the petitioners could not secure any interim orders, they have filed the present writ petitions. The learned Additional Advocate General further submitted that the relief sought for in these writ petitions cannot be adjudicated by this Court in exercise of power under Article 226 of The Constitution of India as there are disputed questions involved. Further, when already civil suits have been instituted, the petitioners are not entitled to file the present writ petitions.

4. I heard the learned counsel on either side and perused the material records. The case status produced on behalf of the respondents would indicate that the suits filed by the petitioners in O.S. Nos. 287 of 2016 and 311 of 2016 are pending as on date. Further, as rightly pointed out by the learned Additional Advocate General, the dispute involved in these writ petitions are purely disputes of civil in nature and they cannot be adjudicated by this Court in these writ petitions. The petitioners are therefore at liberty to proceed with the suit which are pending before the Civil Court and no relief can be granted by this Court in these writ petitions. Accordingly, these writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

kkd/rsh

To

1. The Commissioner of Town
and Country Planning,
Government of Tamil Nadu,
Ezhilagam, Chepauk, Chennai 600 005.

2.Coimbatore Local Development Authority,
Municipal Commercial Corporation Complex,
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Chennai 600 035.

4.The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore 641 001.

5.The Executive Engineer,
Tamil Nadu Housing Board,
Tatabad, Coimbatore.

+2cc to Mr.V. Anandha moorthy, Advocate, S.R.No.56925
+1cc to Mr.J. Sathyanarayana Prasad, Advocate, S.R.No.56768
+1cc to Mr. S. Subbiah, Advocate Sr.No.56845
+1cc to the Government Pleader, S.R.No.57238

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md(22/02/2017)

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