

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 01-03-2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.1695 OF 2014

1.S.Parimala
2.B.Selvi

...

Petitioners

-vs-

- 1.The Director of Town & Country Planning,
No.807, Anna Salai,
Chennai-600 002.
- 2.The Deputy Director of Town & Country Planning,
Salem Region,
No.6, Sannathi Street, Sooramangalam,
Salem-5.
- 3.The Commissioner,
Dharapuram Municipality,
Dharapuram - 638 656,
Tiruppur District.

... Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a writ of certiorarified mandamus, to call for the records relating to the impugned proceedings of the first respondent in Na.Ka.No.24463/2012LA2, dated 02.01.2013, and quash the same and consequently direct the first respondent to cancel the Layout Approval granted in the proceedings in Pa.Mu.No.3972/89LA.2, dated 04.03.1991, by the first respondent and reclassify the petitioners' lands comprised in Old Town Survey No.59/1A (Part), New T.S.No.27/1A, 27/1B, Dharapuram Town and Taluk, Tiruppur District as residential area.

For petitioner : Mr.K.Premkumar

For respondents: Mr.R.Rajeswaran,
Spl.Govt.Pleader.

O R D E R

This Writ Petition has been filed praying for issuance of a writ of certiorarified mandamus and quash the order passed by the first respondent in Na.Ka.No.24463/2012LA2, dated 02.01.2013, by which, the petitioners' request to cancel the Layout Approval Plan granted in proceedings, dated 04.03.1991, was not acceded to, but the petitioners were informed that the same would be considered after the local area development plan for the extension scheme is finalised.

2. The petitioners' case is that they purchased the land in question as agricultural lands from the original land owner. Though the layout was approved by the first respondent on 04.03.1991, it never came into existence and the promoter did not execute any gift deed in favour of the respondents, handing over common area or the reserved site.

3. According to the respondents, the area purchased by the petitioners forms part of an area earmarked for park in the approved layout and, therefore, the petitioners now seek for cancellation of the approved layout plan, granted in 1991.

4. From the counter affidavit, it is seen that the Deputy Director of Town and Country Planning inspected the land and submitted a report on 15.11.2012, stating that in the approved plots, several commercial buildings have been built. These averments find place in paragraph 6 of the counter affidavit. Further, it is contended that though a request was made by the land owners for cancellation of the layout approval, the first respondent vide the impugned order, dated 02.01.2013, rejected the said request, stating that the open spaces earmarked for park in the approval granted in 1991 were included in Dharapuram Extension Development Scheme No.6 as per Comprehensive variation under Section 33 (1) of the Town and Country Planning Act, 1971, in proceedings, dated 26.02.2001, and also approved the scheme and hence the request of the land owners would be considered only after the reclassification of land as residential area in the said Scheme No.6. It is further stated that till date, the petitioners have not submitted any application for reclassification. These averments find place in paragraph 7 of the counter. In paragraph 8 of the counter, it is stated that one Tmt. Vijaya has executed a gift deed in favour of the respondent municipality, gifting 20 cents of vacant site and the same is still a vacant site and further the land allotted for park is fenced by the municipality and being maintained as a vacant site, allotted for park. The respondent would admit that no roads have been laid in the said layout, and, at the same time, he would state that several shops have been constructed and the said shops are running in pucca buildings. Thus, by the impugned orders, the petitioners' rights have not been foreclosed, and it is said that the same would be considered only after reclassification of land as residential area and that will happen only on two contingencies, namely, firstly, on the petitioners making an application and secondly when the Dharapuram Extension Development Scheme No.6 is implemented. Therefore, at the first stage, the petitioners should submit an application for reclassification of land for consideration of the authorities.

5. Accordingly, this Writ Petition is disposed of, directing the petitioners to submit an application for reclassification of land in proper format through proper channel along with a copy of this order and if the application is submitted, the authorities, namely, respondents 2 and 3 shall prepare an appropriate report and forward the same to the first respondent, who shall consider the said application in accordance with law. The above direction shall be complied with, within a period of four months from the date of submission of the

application. Along with the fresh representation, the petitioners shall also enclose a copy of the earlier representation, dated 12.09.2013. No costs. Consequently, the connected M.P.Nos.1 and 2 of 2014 are closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

dixit

To

- 1.The Director of Town & Country Planning,
No.807, Anna Salai,
Chennai-600 002.
- 2.The Deputy Director of Town & Country Planning,
Salem Region,
No.6, Sannathi Street, Sooramangalam,
Salem-5.
- 3.The Commissioner,
Dharapuram Municipality,
Dharapuram - 638 656,
Tiruppur District.

1 cc to Mr.K. Premkumar, Advocate, Sr. 13121
1 cc to Government Pleader, Sr. 13773

W.P.No.1695 OF 2014

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