

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Petition No.18932 of 2016
and WMP.No.16518 of 2016

Elysium Real Properties Pvt Ltd
rep. By G.Karthik Veeramani
No.699, Avinashi Road
Coimbatore-641 037 ...Petitioner
Vs.

1.Director of Town and Country Planning
No.807, Anna Salai, Chennai-600 002

2.The Deputy Director
Local Planning Authority (DTCP)
Corporation Shopping Complex
Tatabad, Shivananda Colony
Coimbatore-641 012

3.The Collector
Coimbatore District, Coimbatore

4.The Tahsildar
Annur Taluk, Coimbatore

5.The President
Vellanaipatty Panchayat
Annur Taluk, Coimbatore

6.Ganapathyappan

7.M/s.Max Electricks
rep. By G.Vijayakumar
No.27, PSG Estate Colony
Peelamedu, Coimbatore-641 004

8.M/s.Max Switchgears Private Limited
Rep. By Ananthi
No.7/174, Vellanaipatti Post
Kalapatti Via Coimbatore-641 048

...Respondents.

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 to 3 to remove the encroachment and unauthorised construction of an industrial factory by respondents 6, 7 and 8 in the land bearing Survey Field Nos.252/1 & 253/1 of Vellanaipatti Village, Annur Taluk, Coimbatore District and restore the layout to its original state keeping unhindered access to public roads and park and also directing respondents 1 to 5 to take appropriate action against respondents 6, 7 and 8.

For Petitioner : Mr.C.Kannan
For Respondents : Mr.P.S.Sivashanmuga Sundaram
Spl.G.P for R1 to R4
Mr.R.Govindarajan, Spl.G.P. For R5

O R D E R

(Order of the Court was made by HULUVADI G. RAMESH, J.)

This Writ Petition is filed seeking issuance of a Writ of Mandamus directing the respondents 1 to 3 to remove the encroachment and unauthorised construction of an industrial factory by respondents 6, 7 and 8 in the land bearing Survey Field Nos.252/1 & 253/1 of Vellanaipatti Village, Annur Taluk, Coimbatore District and restore the layout to its original state keeping unhindered access to public roads and park and also directing respondents 1 to 5 to take appropriate action against respondents 6, 7 and 8.

2. In the accompanying affidavit of the Writ Petition, the petitioner viz., Elysium Real Properties Private Limited, rep. By G.Karthik Veeramani, has averred that he is the Power of Attorney Agent of M/s.T & I Projects Ltd., and the land owner of 4 acres in Survey Field Nos.262/3B and 263/2 of Vellanaipatty Village, Annur Taluk, Coimbatore District and the land situate adjacent to residential layout approved by respondents 1 and 2 and the said layout consists 100 housing plots, 1 shop site, public park, public roads etc. He further averred that respondents 6, 7 and 8, in violation of Tamil Nadu Town and Country Planning Act, 1971, have encroached upon entire park area and portion of roads of above approved residential layout, specifically allotted for access to public. It is further alleged that respondents 6, 7 and 8 constructed a manufacturing industry in the name and style of "Max Switchgears" in the said residential layout which has blocked the public road access and the usage of public park area. In this regard, the petitioner is said to have given a representation dated 30.12.2015 to the 4th and 5th respondents.

3. The learned counsel for the petitioner submits that the representation of the petitioner dated 30.12.2015 is still pending and no action has been taken by the respondents 4 and 5. He further submits that suitable direction may be issued to respondents 1 to 5 to take appropriate action against respondents 6, 7 and 8.

4. Having heard the learned counsel for the petitioner, learned Special Government Pleader appearing for State is directed to take notice for respondents 1 to 4. Notice to respondents 5 to 8 is dispensed with.

5. The pleadings of the petitioner is that respondents 6, 7 and 8 have encroached upon the entire park area and portion of roads of approved residential layout, due to which, public road access and usage of park area has been blocked. However, it appears that the petitioner's individual interest is also involved in the case on hand, who claims to be the adjacent land owner of the layout consists of 100 housing plots. In this regard, before this court, the petitioner is representing in the capacity of a private individual through the Power of Attorney Holder seeking redressal of his grievance. Thus we are of the considered view that it is a matter involving fact finding and hence, the same has to be decided by the civil court.

6. In view of the foregoing discussions, the Writ Petition is disposed of with a direction to the petitioner to approach the civil court seeking mandatory injunction or permanent injunction, if so advised. However, even otherwise, if there any encroachment is made or some nuisance is caused by respondents 6 to 8, that should be looked into by the respondents 1 to 5 in accordance with law. In any event, the matter does not merit consideration to secure status report or to issue any direction to the authorities concerned to take action as regards the allegation in the case on hand as we are of the view that the petitioner is expressing his individual grievance as against respondents 6 to 8. The petitioner is at liberty to work out the remedies before respondents 1 to 4 or elsewhere in the manner known to law. No costs. Consequently, connected MP is closed.

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-s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

1. Director of Town and Country Planning
No.807, Anna Salai, Chennai-600 002.

2. The Deputy Director
Local Planning Authority (DTCP)
Corporation Shopping Complex
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3. The Collector
Coimbatore District, Coimbatore

4. The Tahsildar
Annur Taluk, Coimbatore

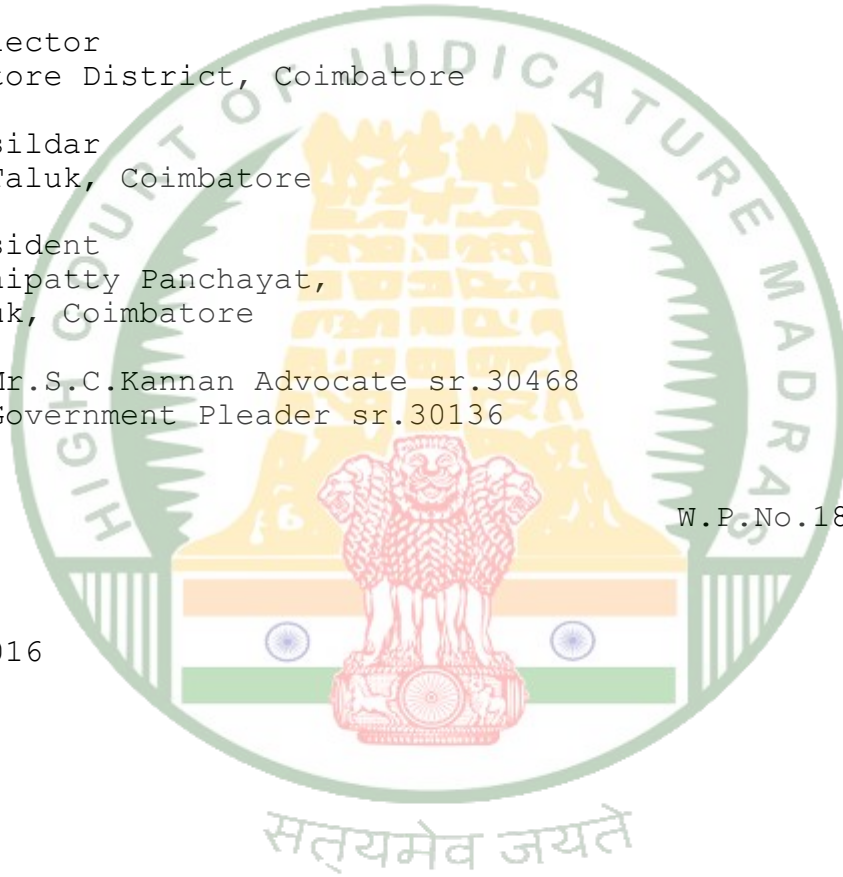
5. The President
Vellanaipatty Panchayat,
Annur Taluk, Coimbatore

+1 cc to Mr.S.C.Kannan Advocate sr.30468

+1 cc to Government Pleader sr.30136

W.P.No.18932 of 2016

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