

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2016

CORAM

The HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE R.MAHADEVAN

W.P.No.40740 of 2015

C.K.Perumal

... Petitioner

Versus

1.The State
rep. by the Director,
Town and Country Planning Authority
No.807, Anna Salai,
Chennai 600 002.

2.The Member Secretary,
Department of Local Planning Authority (DTCP)
Corporation Shopping Complex,
Sivananda Colony, Tatabad,
Coimbatore 641 012.

3.The President,
Vellanapatti Panchayat,
Annur Taluk,
Coimbatore.

4.Elyssium Properties,
rep. by its Managing Director,
No.699, Avinashi Road, Coimbatore 641037. ... Respondents

Petition under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the respondents to remove the unauthorised constructions i.e., sewage treatment plant and R.O.plant in S.F.No.36 Part & 37 Part, Kaikolapalayam Village, Vellanaipatty Village Panchayat, Annur Taluk, Coimbatore, in DTCP Sanction 22020 LA2, local planning authority sanction no.227/2010, layout plan No.52/2010 'Globus Gardens' and restore the layout to

its original approved plan.

For Petitioner	: Mr.M.Velmurugan
For Respondents	: Mr.P.H.Aravind Pandian Senior Counsel for M/s.S.V.Pravin Rathinam for R.4 Mr.R.Vijayakumar for R.1 and R.2 Mr.D.Suriya Narayanan for R.3

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

The petitioner alleges that in the lay out for individual plots obtained by the 4th respondent at Vellanaipatti Panchayat, Annur Taluk, Coimbatore in the name and style of 'Globus Gardens', sanction was granted for parks, roads and sufficient open area. In terms of the permits, it was granted only for the individual septic tanks for disposal of the sewage, whereas the 4th respondent has unauthorizedly constructed Sewerage Treatment Plant (S.T.P), which was initially approved by the third respondent in 2012 and on subsequent protest, was withdrawn by a resolution dated 24.07.2014. Despite this, the S.T.P continues to operate.

2. The counter affidavit of the Local Planning Authority/second respondent states that the area earmarked for parks was handed over to the Vellanaipatti Panchayat/third respondent through a gift deed in 2010. The S.T.P and R.O plants were constructed by the 4th respondent on the property of the third respondent. The then Panchayat President had permitted the construction of S.T.P vide letter dated 05.11.2013 and the Tamil Nadu Pollution Control Board also gave consent to permit the construction on renovation upto 2016-2017.

3. We may notice that the S.T.P has already been constructed and thus, in that sense, the subsequent cancellation vide resolution No.153 dated 24.07.2014 is a post facto act. The only thing the third respondent states is that since the 4th respondent is not the owner of the land, it cannot construct the S.T.P and that is why it is unauthorised. However, the fact remains that the S.T.P is only being managed by the 4th respondent and insofar as the current stand of the third respondent is concerned, it has been categorically averred in

its affidavit that there is no other source to drain waste liquid from the residential houses and the installation of S.T.P is necessary for all the residential owners, the absence of which would cause health hazards to all residential owners. It is averred that S.T.P has been installed in an appropriate place and the drainage water is recycled and has been utilized for maintaining a garden, that too through underneath pipelines. The STP is stated to be 100 feet distance from the residential place.

4. In view of the aforesaid, it is quite obvious that there is need of the S.T.P to prevent pollution and health hazards, but the only question is that it has been constructed by the 4th respondent on the land of the third respondent. In our view, that would not make a difference, as in effect, the S.T.P would be for the benefit of the residents and the 4th respondent is only running the same. However, this irregularity should not be permitted to continue and thus, the second respondent would examine regularisation of the STP at the site where it has been installed. The necessary regularisation to be made within a period of two months from today.

5. The writ petition accordingly stands disposed of, leaving the parties to bear their own costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ksr

To

1.The Director, Town and Country Planning Authority
No.807, Anna Salai, Chennai 600 002.

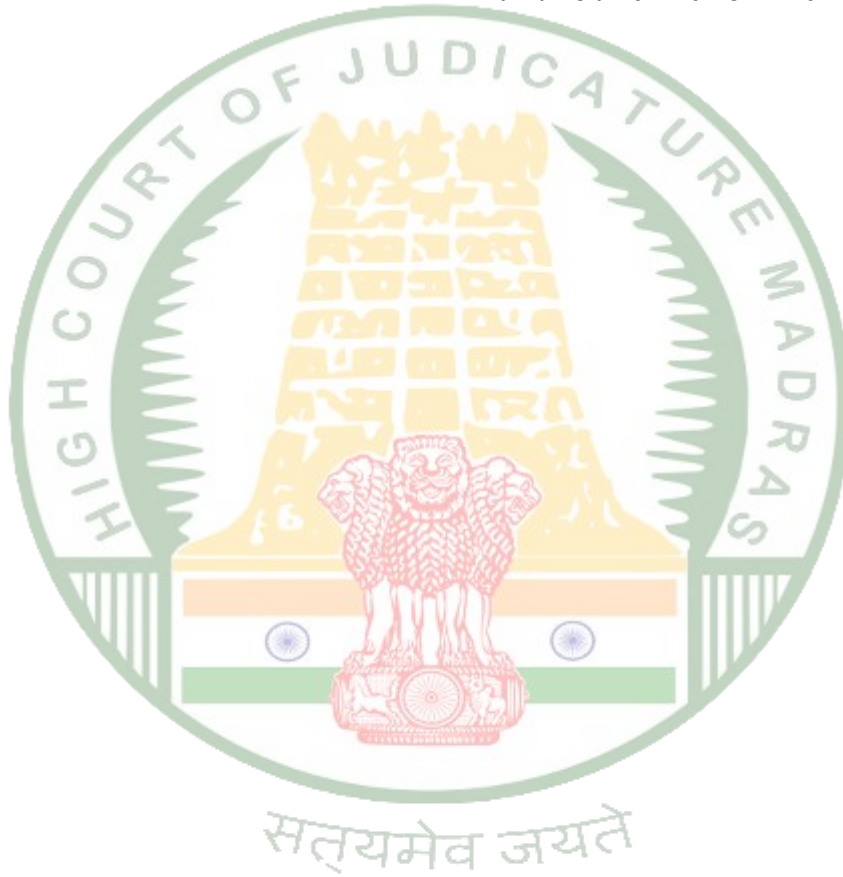
2.The Member Secretary,
Department of Local Planning Authority (DTCP)
Corporation Shopping Complex,
Sivananda Colony, Tatabad, Coimbatore 641 012.

3.The President, Vellanapatti Panchayat,
Annur Taluk, Coimbatore.

+1cc to Mr.M. Velmurugan, Advocate, S.R.No.65166
+2cc to Mr.S.V.Pravin Rathinam, Advocate, S.R.No.64258
+1cc to the Government Pleader, S.R.No.64325

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