

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.6.2016

CORAM

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

W.P.No.27875 of 2013
and
M.P.No.1 of 2013

M/s.L.M.L.Colony Residents
Welfare Association
rep. by its President,
V.Arunachalam,
No.33-34, L.M.L. Colony,
Amman Kulam Road,
Coimbatore 641 037.
(Registration No.372 of 2012)

Petitioner

Versus

1. The Director
Tamil Nadu Town & Country
Planning Department,
No.800 Anna Salai, Chennai 600 002.
2. The Member Secretary,
Coimbatore Local Planning Authority,
Corporation Commercial Complex,
Sivananda Colony, Coimbatore 641 012.
3. The Commissioner,
Coimbatore Corporation, Coimbatore 641 001.
4. P.J.Devaraj
5. G.Nesamani
6. A.Kamalam
7. Mrs.Sandhayavalli
8. Dr.S.Manoranjitham
9. S.Ravi Kumar

Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing respondents 1 to 3 herein to forthwith take action on the representation of the petitioner dated 8.7.2013 and take control of and maintain the 50 feet Scheme Road in T.S.No.1068/1C3 in Pappanaicken Palayam Coimbatore 641 037 as shown in the approved Layout No.185 of 1973 under Ref.Na.Ka.No.22587/73 DP4.

For petitioner : Mrs.AL.Ganthimathi
For R1 : Mr.P.S.Sivashanmugasundaram,
Special Govt. Pleader
For R2 : Mr.P.Karthikeyan
For R3 : Mr.J.Sathiyarayanaprasad
For RR4 to 6 : Mr.R.Subramanian
For R8 and R9 : Mr.B.Ravi

ORDER

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

Heard the learned counsel appearing for the parties.

2. The petitioner has prayed for issuance of a writ of mandamus directing respondents 1 to 3 herein to forthwith take action on the representation of the petitioner dated 8.7.2013 and take control of and maintain the 50 feet Scheme Road in T.S.No.1068/1C3 in Pappanaicken Palayam Coimbatore 641 037 as shown in the approved Layout No.185 of 1973 under Ref.Na.Ka.No.22587/73 DP4.

3. The petitioner appears to be the Welfare Association of L.M.L.Colony Residents, represented by its President. This Association is duly registered in Registration No.372 of 2012 with the object to ensure the basic amenities of the residents of the colony. The property in T.S.No.1068/1C2, T.S.Ward, No.10, Block No.17, Amman Kulam Road, Pappanaickenpalayam, Coimbatore belonged to one Mrs.Kannammal, wife of Sri Venkatesa Naidu and her sister Mrs.Sandhyavalli. They have developed the lay out of 60 housesites and had obtained approval from the Tamil Nadu Town and Country Planning Department vide Layout No.185 of 1973 under Reference No.Na.Ka.No.225871/73 DP4.

4. Referring to approved plan, the petitioner would contend that there are a formation of 20 feet road and 30 feet connected 50 feet road and consent and approval of the lay out was obtained taking note of the 50 feet scheme road and also there is a specific mention in each of the sale deeds made in favour of the purchasers by the promoter. Further, under the legitimate expectation that 50 feet scheme road would be maintained to have ingress and egress to the colony the members of the petitioner Association had purchased the lands. Now, stating that the 50 feet scheme road is not being maintained and it has been encroached, etc., the present writ petition has been filed.

5. Notice has been ordered. The seventh respondent is reported to be dead. All the other respondents have been represented by their respective counsel.

6. Heard the learned counsel for the respective parties. The main grievance of the petitioner is that maintenance and formation of 50 feet scheme road as per the approved lay out plan is the responsibility of respondents 1 to 3. In the circumstances, the first respondent viz., the Director of Tamil

Nadu Town and Country Planning Department is present in court. As per the approved plan and also as per the submission of the counsel for the petitioner, the 50 feet scheme road was in existence since 1960 and at the time of approval of the lay out and it finds place in each of the sale deeds of the members of the Association who were in possession of the property and that is the road available to the residents to have ingress and egress to their plots.

7. Learned counsel appearing for respondents 8 and 9 would submit that the property in dispute was not forming part of the sale and hence they have got every right to develop the property on their own.

8. Respondent-authorities, who were present before this court in their official capacity, made a request for some time to ascertain the factual situation and hold an enquiry and take action in accordance with law. It is the authorities who have to decide in the matter of formation of road if it is shown in the approved plan, as to what can be done and how it can be set right, after hearing the parties and also to maintain the road, if it exists as per the approved plan. It is for the Corporation and Town and Country Planning Authority to do the needful in accordance with law. If the road is not continuously used for the residents of the lay out for one or other reason, what is the impediment and what steps should be taken to restore the road without detrimental to the interest of any other persons, etc., would also be taken note of.

9. In the circumstances, we dispose of the writ petition with the following direction. The representation of the writ petitioner shall be considered by respondents 1 to 3 within four months from the date of receipt of copy of this order. The writ petition is disposed of. The presence of the authorities is dispensed with. No costs. The connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1. The Director
Tamil Nadu Town & Country
Planning Department,
No.800 Anna Salai,
Chennai 600 002.
2. The Member Secretary,
Coimbatore Local Planning Authority,
Corporation Commercial Complex,
Sivananda Colony, Coimbatore 641 012.
3. The Commissioner,
Coimbatore Corporation,
Coimbatore 641 001.

+2ccs to Mr.R. Subramanian, Advocate, S.R.No.33630
+1cc to M/s.A.L. Ganthimathi, Advocate, S.R.No.33457
+1cc to M/s. J. Sathya Narayana Prasad, S.R.No.33432
+1 cc to Government Pleader Sr.33702

MG(CO)
EU(21/07/2016)

W.P.No.27875 of 2013

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