

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.02.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.6452/2016 & WMP.No.5736/2016

M.Balasubramaniam

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Petitioner

Versus

- 1.The Commissioner
Coimbatore Municipal Corporation
Coimbatore.
- 2.The Member Secretary
Coimbatore Local Planning Authority
Corporation Shopping Complex, 1st Floor
Tatabad, Coimbatore 641012.

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the respondents to take appropriate steps to prevent anybody from putting up any construction of whatsoever manner in the portion of land earmarked for the purpose of public utility and park and survey No.342 of Thudiyalur Village, Coimbatore District forming part of the layout in DTP approval layout number 526/91.

For Petitioner : Mr.A.Mohamed Ismail

For R1 : Mr.J.Sathyanarayana Prasad

For R2 : Mr.R.Rajeswaran, Spl.GP

ORDER

Heard the learned counsel appearing for the petitioner ; Mr.J.Sathyanarayana Prasad, learned Standing Counsel accepting notice on behalf of the 1st respondent and Mr.R.Rajeswaran, learned Special Government Pleader accepting notice on behalf of the 2nd respondent and with their consent, the writ petition is taken up for final disposal at the admission stage.

2 The petitioner has filed this writ petition seeking for a direction to prevent anybody from putting up construction in an area earmarked as Park in the Layout which has been approved vide proceedings No.526/91. From the copy of the layout plan produced in the typed set of papers, it is seen that an area has

been earmarked as Park. It is submitted that certain third parties are attempting to put up a construction in the area preserved as Park and therefore, the petitioner submitted a representation to the Corporation Authorities, who in turn, vide reply dated 29.10.2014, assured that the area earmarked, would be fenced and protected. Since no further action has been taken subsequently, the petitioner approached the 2nd respondent who has sent a reply even earlier, i.e., on 27.08.2015, from which, it is not very clear as to whether a Gift Deed was executed by the promoter in favour of the Corporation.

3 Be that as it may, if the area has been earmarked as a park and the layout plan has been approved, then the local authority or the local body, within whose jurisdiction the property lies, has to protect the same and ensure that there is no change of user. Even assuming that a Gift Deed has been executed in favour of the earlier Corporation, that would not confer ownership of the land by the Corporation. But the Corporation should act as a custodian and ensure that the land is preserved as a Park.

4 Therefore, the 1st respondent is directed to consider the petitioner's representation dated 25.01.2016, verify the necessary details and if it is found that the area has been earmarked as a park, ensure that there is no construction put up in the said area. The above direction shall be complied with by the 1st respondent, after notice to all concerned, within a period of two weeks from the date of receipt of a copy of this order.

5 The writ petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

AP

To

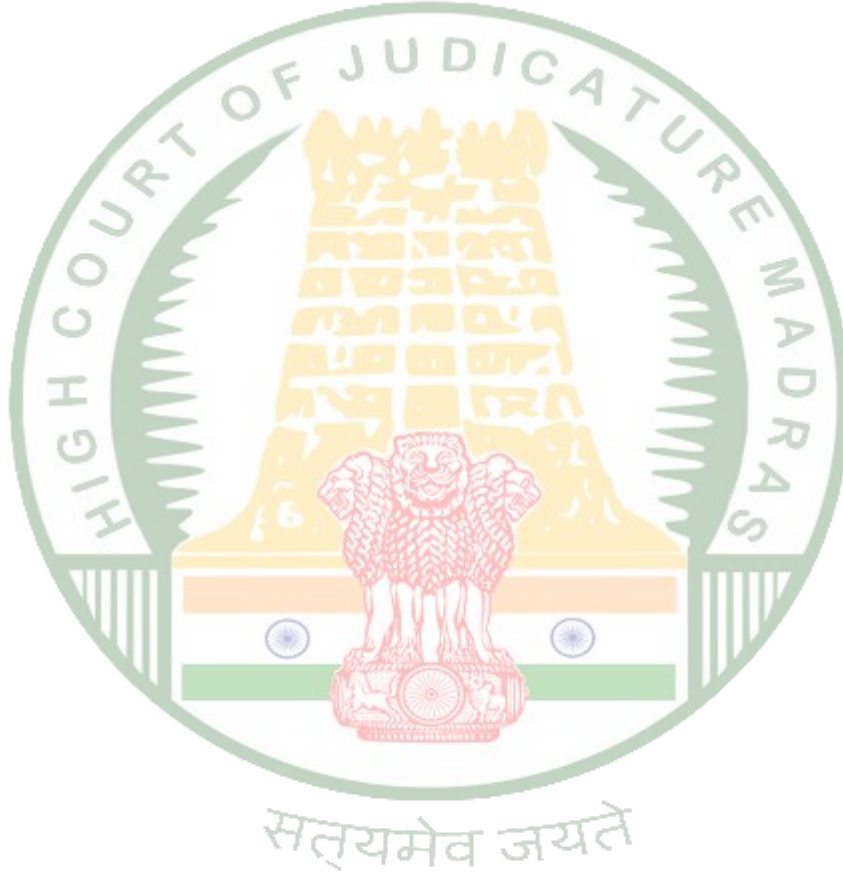
1.The Commissioner
Coimbatore Municipal Corporation
Coimbatore.

2.The Member Secretary
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1 cc to M/s.J. Sathya Narayana Prasad, Advocate, Sr. 11005
1 cc to Mr.A. Mohamed Ismail, Advocate, Sr. 11093

WP.No.6452/2016

NM (CO)
kk 9/3



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