

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.22254 of 2017

and

W.M.P.Nos.23361 & 23362 & 28355 of 2017

Kovai Ramanathapuram Veerappa Thevar
Colony Residents' Welfare Association
(Reg.No.49/87) Represented by its President
B.Kulandaisamy
Plot No.10, Veerappa Thevar Colony,
Nanjundapuram Post,
Coimbatore - 641 036.

.. Petitioner

Vs.

1. The Chief Secretary,
Government of Tamil Nadu,
Fort St.George,
Chennai - 600 009.
2. The Secretary,
Department of Housing and Urban Development,
Fort St.George,
Chennai - 600 009.
3. The Secretary,
Department of Municipal
Administration and Water Supply
Fort St.George,
Chennai - 600 009.
4. The Commissioner of Town and Country Planning,
No.807, Annasalai, Chennai - 600 002.
5. The District Collector/ Chairman,
Coimbatore Local Planning Authority,
Sivananda Colony,
Coimbatore - 641 012
6. The Commissioner,
Coimbatore Municipal Corporation,
Coimbatore - 641 001.

.. Respondents

PRAYER: Writ petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the entire records relating to the proceedings of the 4th respondent in Roc.No.10248/2010/DP2 dated 04.07.2017 and quash the same.

For Petitioner : Mr.B.Ramamoorthy

For Respondents : Mr.A.Kumar,
Special Government Pleader
for R1 to R5
Mr.K.Magesh,
Standing Counsel for R6.

O R D E R

The petitioner is an Association consisting of its members residing at Veerappa Thevar Colony, Nanjundapuram, Coimbatore. The present writ petition is filed challenging the proceedings of the 4th respondent dated 04.07.2017 wherein and whereby the width of the road was reduced from 100 feet to 60 feet and 40 feet to 23 feet, thereby de-reserving the land earmarked for playground into residential use.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents 1 to 5.

3. The learned counsel for the petitioner submitted that the reduction of road width is against the interest of public as the de-reserved area is sought to be utilised by some influential persons as residential plots. He further submitted that the objections made by the petitioner Association and others were not at all considered before passing the impugned order. He further submitted that when a writ petition is already pending before this Court in W.P.No.7277/2013 seeking for a mandamus to forbear the respondents from converting the land under dispute, the 4th respondent has chosen to pass the present order on an erroneous application of mind.

4. The learned counsel appearing for the respondents submitted that the impugned order was passed after considering the objections raised by the public and therefore, the petitioner Association cannot have any grievance.

5. It is not in dispute that the respective roads originally planned to have 100 feet width and 40 feet width are sought to be reduced to 60 feet width and 23 feet width respectively, thereby leaving the remaining portions, which were originally earmarked for play ground and park, to be utilised as

residential plots. This is evident from the perusal of the impugned order itself. It is further seen that the 4th respondent after referring to a report sent by the Member Secretary of Coimbatore Local Planning Authority in his letter dated 20.06.2017, stated that the objections and suggestions were received on publication of the impugned notification and however, the said official has requested to confirm the same.

6. Unfortunately, the 4th respondent has not referred to the nature of such objections and suggestions made by the public and as to why such objections and suggestions are to be overruled, so as to confirm the variation notification, as sought for by the Member Secretary of Coimbatore Local Planning Authority. In other words, the impugned order does not speak anything or discuss any of those objections apart from not disclosing any reason as to why those objections are to be overruled. When that being the factual position, which is evident on the face of the impugned order, this Court is of the firm view that the impugned order has to be treated as a non-speaking order and therefore, the matter has to go back to the 4th & 5th respondents for passing a speaking order, after considering the objections raised by the petitioner and others in detail. It is stated that the petitioner association has also made two representations dated 12.07.2017 and 22.07.2017, subsequent to the impugned order. Needless to say that reducing the road width is a strange action which has to be necessarily supported by strong and convincing reasons. Therefore, it is for the 4th and 5th respondents to consider the matter afresh and pass fresh orders on merits and in accordance with law after giving due opportunity of hearing to the petitioner and other interested persons.

7. Accordingly, the writ petition is allowed and the impugned order is set aside and the matter is remitted back to the 4th and 5th respondents for considering the objections raised by the petitioner and pass fresh orders on merits and in accordance with law, after giving due opportunity of hearing to the petitioner and other interested persons, if any. Such exercise shall be done by the 4th and 5th respondents within a period of eight weeks from the date of receipt of a copy of this order. Till such an order is passed as directed in this writ petition, the respondents shall maintain status quo as on today. Consequently, connected miscellaneous petitions are closed.

-sd/-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Chief Secretary,
Government of Tamil Nadu,
Fort St.George,
Chennai - 600 009.
2. The Secretary,
Department of Housing and Urban Development,
Fort St.George, Chennai - 600 009.
3. The Secretary,
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Coimbatore - 641 001.

+1 C.C. to MR.K.Magesh Advocate SR.NO.74496

+1 C.C. to MR.B.Ramamoorthy Advocate SR.NO.74539

+1 C.C. to The Government Pleader SR.NO.75333

W.P.No.22254 of 2017

SKV (CO)

VS 01.11.2017