

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 12.04.2017
CORAM:
THE HONOURABLE MR. JUSTICE M.M.SUNDRESH
W.P.Nos.4826 of 2013 and 498 of 2017
& M.P.No.2 of 2013

1.B.Sarojini
2.V.Jayanthi
3.K.Sumathi

...Petitioners in
W.P.No.4826 of 2013

1.G.Umarani
2.Rajammal
3.A.Sudarsan
4.Loganayagi

...Petitioners in
W.P.No.498 of 2017

... Vs. ...

- 1.The District Collector,
Erode District,
Erode - 638 011.
- 2.The Assistant Director,
(Panchayat), District Collector Office,
Erode-638 011.
- 3.The District Registrar,
Office of the District Registrar,
Karungalpalayam, Erode.
- 4.The Sub Registrar,
Sathyamangalam, Erode District.
- 5.The Director of Town and Country Planning,
807, Anna Salai,
Chennai.
6. The President,
Komarapalayam Village Panchayat,
Sathyamangalam Taluk,
Erode District.

7.K.K.Sengodan

8.C.Shanmuganathan

.. Respondents in
W.P.No.4826 of 2013

- 1.The District Collector,
Erode District,
Erode - 638 011.

2. The Assistant Director (Panchayat),
Collectorate Complex,
Erode - 638 011.

3. The Block Development Officer,
Sathyamangalam Union,
Sathyamangalam,
Erode District.

4. The President,
Komarapalayam Village Panchayat,
Komarapalayam Post,
Sathyamangalam Taluk,
Erode District.

...Respondents in
W.P.No.498 of 2017

Prayer in WP.No.4826/13: Writ petition is filed under Article 226 of the Constitution of India, for issuance of a writ of Certiorarified Mandamus to call for the records relating to the impugned order dated 31.10.2012 made in Na.Ka.No.1774/12/A4 passed by the first respondent, quash the same and consequently, direct the respondents 1 to 6 to take action against the respondents 7 and 8 for their mischievous act of adding R.S.No.155 in their plan approval order dated 11.08.1998 made in Na.Ka.No.4838/98-LA3 issued by the fifth respondent.

Prayer WP.No.498 of 2017: Writ petition is filed under Article 226 of the Constitution of India, for issuance of a writ of Mandamus directing the respondents 1 to 3 to issue direction to the 4th respondent to allot door numbers and assess the house tax to our respective houses constructed in house site Nos. 58, 3, 5, 72 located in 'New Diamond Nagar', bearing new S.F.Nos.155/2A and 155/2B, Malaiyadipudur Village, Sathyamangalam Taluk, Erode District by considering our representation dated 03.08.2016.

For Petitioners in : Mr.N.Manokaran
both W.Ps.

For Respondents : Mr.R.A.S.Senthilvel,
in W.P.4826/2013 Addl. Government Pleader
for R1 to R5
Mr.K.Muralidharan for R6
Ms.R.Poornima for R7
Mr.A.Thiyagarajan for R8

For Respondents
in W.P.498/2017

: Mr.R.A.S.Senthilvel,
Addl. Govt. Pleader
for R1,R2 & R4.
Mr.P.Sanjay Gandhi,
Additional Government Pleader for R3.

COMMON ORDER

Considering the commonality of the issues involved, they have been taken up together and disposed of by way of common order.

2. Heard the learned counsel appearing for the parties.

3. As per the impugned order, there was a lay out obtained by the respondent No.7 and the vendor of the writ petitioners in W.P.No. 4826/2013 in the year 1998. Despite the said lay out, the places, which have been earmarked for the public purpose, are being sold with impunity. It is also the case of respondents 7 and 8, the said activities continues even now.

4.The learned counsel appearing for the petitioners in both the cases seeks to predicate the said order on the premise that at the time of passing the impugned order, the petitioners in W.P.No.4826/2013 has already purchased the land in survey Number 155. The vendor of the said petitioners is also died subsequently. However, neither the vendor of the petitioners nor the petitioners was put on notice. He also raises a contention that it is not factually correct to allege that there is an approved lay out in the year 1998. Incidentally, in the other writ petition in W.P.No.498 of 2017, it is submitted that he has also not been heard and he has purchased the property from the petitioners in W.P.No.4826/2013 but not as per the alleged approved lay out.

5. These issues cannot be gone into the writ petitions. One thing is clear, on a perusal of the impugned order that neither the vendor of the petitioners in W.P.No.4826 of 2013 nor the petitioners were heard. The impugned order is, in fact, a communication from the first respondent to the fourth respondent. In other words, there was no enquiry made by hearing the parties concerned. Perhaps had there been enquiry conducted, the respondent No.1 could have passed a different order which would have either be in favour of the petitioners or in favour of the respondents. Had it been in favour of the respondents, the order would have been more rigorous. In other words, the consequences of the violation, if any, would have been addressed followed by a direction to the appropriate authorities to take action accordingly. In such view of the matter, this Court is inclined to set aside the order impugned,

though it merely directs the respondent No.4 to act, since, it has got civil consequences. Accordingly, the order impugned is set aside and the writ petitions stand allowed. The respondent No.1 is directed to conduct a detailed enquiry by putting the petitioners on notice. Not only that, the respondent No.1 will have to put all the other persons who have allegedly purchased the extent of land with respect to the area earmarked for the public purpose, on notice. Therefore, the enquiry would encompass the alleged overall violation. Thereafter, appropriate orders will have to be passed by the respondent No.1.

6. The learned counsel appearing for the respondent No.7 submits that the subsequent sales have been taken place. Thus, it is made clear that notice will have to be issued to all the purchasers from the petitioners in W.P.No.4286/2013, both prior to the impugned order as well as after. Considering the facts and circumstances of the case, the status quo, as on today will have to be maintained, which means, there shall not be any more registration or sale, till the enquiry is completed by the respondent No.1. The respondent No.1 shall conclude the enquiry within eight weeks from the date of receipt of copy of this order, after due notice to all the parties concerned. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar(CSVIII)

True Copy

Sub-Assistant Registrar

raa/kak

To

1.The District Collector,
Erode District,
Erode - 638 011.

2.The Assistant Director,
(Panchayat), District Collector Office,
Erode-638 011.

3.The District Registrar,
Office of the District Registrar,
Karungalpalayam, Erode.

4.The Sub Registrar,
Sathyamangalam, Erode District.

5.The Director of Town and Country Planning,
807, Anna Salai,
Chennai.

6. The Block Development Officer,
Sathyamangalam Union,
Sathyamangalam,
Erode District.

7. The President,
Komarapalayam Village Panchayat,
Komarapalayam Post,
Sathyamangalam Taluk, Erode District.

+1 cc to Mr.A.Thiyagarajan Advocate sr 22377
+2 ccs to Mr.N.Manokaran Advocate sr 22495 & 22494
+2 ccs to the Government Pleader High Court Madras
sr 22792 & 22724
+1 cc to M/s.R.Poornima Advocate sr 22244

W.P.Nos.4826 of 2013 and 498
of 2017

nml (co)
aa21/04/2017



WEB COPY