

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2018

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P No.21522 of 2014

Ameer Basha

..Petitioner

Vs

1.Government of Tamil Nadu,
Represented by its Secretary,
Municipal Administration and
Water Supply Department,
Fort St.George, Chennai - 600 009.

2.The Member Secretary (General),
New Town Development Authority,
Hosur, Krishnagiri District.

3.The Director of Town and Country Planning,
No.807, Anna Salai,
Chennai - 600 002.

4.Muthusamy

5.K.M.Balusamy

6.P.Senthilkumar

.. Respondents

(Respondents 4 to 6 are impleaded as per
order of this Court dated 23.02.2016 in
MP.No.1 of 2015 and WMP.No.4856 of 2016
in W.P.No.21522 of 2014)

Prayer: Writ Petition is filed under Article 226 of the
Constitution of India, seeking issuance of a Writ of Mandamus,
directing the first respondent to conduct an enquiry and to pass
orders pursuant to the communication of the 3rd respondent dated
17.4.2013 passed in Na.Ka.No.24566/2011/LA-2 issued following
the representation of the petitioner dated 27.09.2006 for
cancellation of Layout Approval in Layout No.173/2005 on the
file of the 2nd respondent herein with respect to the properties
comprised in Survey Nos.166/1, 187/4, 178/1, 183/1 and 189/1
measuring an extent of 11.98 acres of land out of 22.90 acres of
land in Mathigere Village, Hosur Taluk, Krishnagiri District.

For Petitioner : Mr.S.Sadasharam

For Respondents : Mr.B.Anand
Government Advocate for R1 and R3
Mr.D.Shiva Kumaran for R5
No appearance R2, R4 and R6

O R D E R

Heard Mr.S.Sadasharam, learned counsel for the petitioner, Mr.B.Anand, learned Government Advocate for respondents 1 and 3 and none appeared for the respondents 2, 4 and 6.

2. This writ petition has been filed seeking issuance of writ of mandamus, to direct the first respondent to conduct an enquiry for cancellation of layout approval granted by the second respondent in favour of the respondents 4 to 6 in respect of properties comprised in Survey Nos.166/1, 187/4, 178/1, 183/1 and 189/1, measuring an extent of 11.98 acres of land out of 22.90 acres of land in Mathigere Village, Hosur Taluk, Krishnagiri District.

3. The case of the petitioner is that the land in dispute belongs to the Wakf Board, but suppressing the material facts, the private respondents have got approval from the second respondent.

4. In the counter affidavit filed by the fifth respondent, it is stated that the Tamil Nadu Wakf Board represented by its Secretary and Jamia Mosque, Hosur represented by Muthavalli Mr.Syed Anwar John, have filed a suit in O.S.No.394 of 1996, before the District Munsif Court, Hosur for declaration of title and now the suit has been transferred to Sub Court, Krishnagiri and re-numbered as W.O.S.No.1 of 1998. The fifth respondent further stated that he instituted a suit in W.O.S.No.25 of 2010, before the Subordinate Court, Krishnagiri against the Tamil Nadu Wakf Board and the writ petitioner claiming title to the same property when the suits are pending, the present writ petition has been filed and that unless right is decided by the competent Civil Court, the petitioner cannot seek any relief in the writ petition.

5. It is stated in the counter of the 2nd respondent that the lay out approval was granted as per Section 49 of Town and Country Planning Act in 2005 and 23 buildings have been constructed in the lay out. It is also seen that the earlier writ petition filed by the petitioner W.P.No.14146 of

2007 was disposed of and his Contempt Petition No.269 of 2009 was dismissed.

6. The learned Government Advocate appearing for the respondents 1 and 3 submitted that the suit filed by the Wakf Board and Jamia Mosque, Hosur, was dismissed for non prosecution and now they have filed an application in I.A.No.13 of 2013 to restore the suit.

7. In the light of the above facts, I find no merit in the writ petition. In that view this writ petition is dismissed. No costs.

Sd/-

Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

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To

1.The Secretary,
Government of Tamil Nadu,
Municipal Administration and
Water Supply Department,
Fort St.George, Chennai - 600 009.

2.The Member Secretary (General),
New Town Development Authority,
Hosur, Krishnagiri District.

3.The Director of Town and Country Planning,
No.807, Anna Salai,
Chennai - 600 002.

+1cc to Mr.S.Sadasharam, Advocate, sr.no.30611

+1cc to Mr.D.Shivakumaran, Advocate, sr.no.30843

+1cc to the Government Pleader, sr.no.31342

W.P No.21522 of 2014

KK(CO)

RRK(31/05/18)