



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.05.2018

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THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

W.P.(MD)No.11606 of 2018 and
WMP(MD)No.10574 of 2018

Navaneetha Property Developers,
Represented by its Partner S.Ananthakrishnan,
Having residence and office at
First Floor, Seven Hills Tower,
Karur Bye pass Road, Annamalai Nagar,
Tiruchirapalli - 620 018.

.. Petitioner

VS

- 1.The Collector,
Tiruchirapalli District,
Tiruchirapalli - 1.
- 2.The Commissioner,
Tiruchirapalli City Municipal Corporation,
Tiruchirapalli - 1.
- 3.The Commissioner,
Town & Country Planning,
Opposite to LIC Buildings,
Anna Salai, Chennai - 2.
- 4.The Member Secretary,
Tiruchirapalli Local Planning Authority,
Tiruchirapalli.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus directing the 4th respondent to regularize his unapproved area which is for an extent of 1.85 acres situated in T.S.No.1292/2 in Melur Village, Srirangam Taluk, Tiruchirapalli District on the basis of my application dated 07.04.2018 submitted vide Registration No.DTCP/L/0074539/2017 as expeditiously as possible within the



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For Petitioner : Mr.R.Niresh Kumar

For Respondents : Mr.K.Saravanan (for R1,R3,R4)
Government Advocate
Mr.N.S.Karthikeyan (for R2)

ORDER

I heard Mr.R.Niresh Kumar, learned counsel appearing for the petitioner, Mr.K.Saravanan, learned Government Advocate, appearing for the respondents 1, 3 and 4 and Mr.N.S.Karthikeyan, learned counsel appearing for the 2nd respondent.

2.By consent, the writ petition itself is taken up for final disposal. The petitioner herein seeks for the relief of Mandamus so as to direct the 4th respondent to regularize his unapproved layout which is for an extent of 1.85 acres situated in T.S.No.1292/2 in Melur Village, Srirangam Taluk, Tiruchirapalli District on the basis of his application dated 07.04.2018 submitted vide Registration No.DTCP/L/ 0074539/2017.

3.According to the petitioner, he is a power agent of one Mr.N.Anand for which he has got a General Power of Attorney deed executed and registered vide Document No.743 of 2018 before the Sub-Registrar, Srirangam, Tiruchirapalli District.

4.It is the case of the petitioner that the said Mr.N.Anand has purchased a landed property situated at Survey No.1292/2, Melur Village, Srirangam Taluk, Trichy District from one M.Jeyalakshmi and other vide a registered sale deed in Document No.2664 of 2014 and the total extent of the land purchased by him is two acres. After the purchase of the said property, the petitioner herein was entrusted with the task of plotting out an extent of 1.85 acres out of the entire property, as a result of which, the petitioner herein has developed a layout in the name of Navaneetha Property Developers and accordingly he has plotted out the said property.

5.The learned counsel for the petitioner would further submit that the petitioner, after putting a layout in the said property, periodically from time to time, right from 06.07.2016 till 22.08.2016 has sold certain plots to various persons through registered sale deeds. However in view of the subsequent orders of the Government in connection with the approval of layout and plot in the layout, the petitioner was not in a position to dispose his plots lies within his layout. According to him, though there are willing persons readily available for purchasing his plots, in view of the G.O.(Ms)No.78 Housing and Urban Development (UD4 (3))



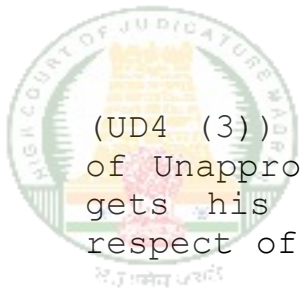
Department dated 04.05.2017, the 4th respondent herein has not processed his application submitted by him for regularization of his layout.

6. The learned counsel for the petitioner would further submit that after the aforesaid Government Order was come into force in order to get regularization of his layout on 07.04.2018 along with a sketch indicating the Topo and by paying the necessary fee in this regard has submitted an application before the 4th respondent. It is the case of the petitioner that the aforesaid G.O. introduces certain guidelines with regard to the regularization of unapproved layout and particularly Rule 7(d) of the said G.O. says that unapproved layout shall gain access from a public road which would have the width of 4.8 meters in the Corporation.

7. According to the learned counsel for the petitioner, that is a clear cut corporation road which is very much in existence so as to gain access from the petitioner's layout and he would further say even the sketch annexed along with the application clearly denotes the existence of the corporation road i.e. Public Road. It is the further claim of the petitioner that for approaching the aforesaid public road from his layout, there is an accessible road plying which has also been readily available in T.S.No.1292/6 and the said road is used as common road by the plot owners.

8. The learned counsel for the petitioner would further submit that before the submission of his application for getting the relief of regularization, in connection with the property situated in T.S.No.1292/3 owned by one Sathish Kumar who is the brother of the petitioner's Principal, when he has sought for the relief of approval of his property, for extraneous reasons, one K.Somasundaram has raised objection and subsequently later he has also filed a writ petition before this Court in W.P.(MD)No.8781 of 2018 in which vide order dated 20.04.2018, his representation was directed to be considered by the 4th respondent within a period of six weeks. However, the learned counsel for the petitioner would contend that the said subject matter is no way related to the petitioner's property as the petitioner's layout would lie with in T.S.No.1292/2. According to the learned counsel for the petitioner, the 4th respondent is under the wrong notion that the objection of the said K.Somasundaram would stand in the way of considering the petitioner's claim of regularization and as a result, his application dated 07.04.2018 has not been given access by regularizing his layout.

9. The learned Government Advocate for the respondents 1, 3 and 4 submit that though certain plots in the petitioner's layout were allowed to be registered, in view of the introduction of new rules vide G.O.(Ms)No.78 (Housing and Urban Development)



(UD4 (3)) Department dated 04.05.2017 as Tamil Nadu Regularization of Unapproved Layouts and Plot Rules, 2017, unless the petitioner gets his unapproved layout regularized, he can do nothing in respect of his property.

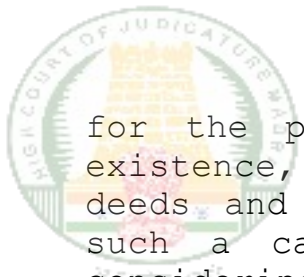
10. The learned Government Advocate for the respondents 1, 3 and 4 would submit that the public road pointed out in the sketch situated not by abutting the petitioner's layout whereas it is in the reachable position only through an approach road. According to the learned Government Advocate that unless the public road is available adjoining to the unapproved layout, regularization cannot be done. That apart, the learned Government Advocate would contend that when a similar request in respect of a land in T.S.No.1292/3 was being considered, since one K.Somasundaram has raised objection, the 4th respondent is of the view that such objection would also be covering the case of the petitioner and that is the reason why, the petitioner's claim in respect of regularization has not been answered so far.

11. I have perused the documents filed by the petitioner in the typed set of papers and paid my anxious consideration and I have also gone through the said rule promulgated by the Government for the regularizing the unapproved plot and layout. In the said Rule, Rule No.7(d) reads as follows:

"(d). The layout applied for regularization shall gain access from a public road of minimum width of 4.8 meter in case of Corporations and Municipalities and 3.6 meter in case of Town Panchayats and Village Panchayats."

12. Thus it is clear that the only requirement for regularizing the unapproved layout is that such layout shall gain access from a public road with the width of 4.8 meters in the corporation. In the given case, it is not in dispute that the corporation road which is noted down the sketch annexed in the application dated 07.04.2018 has got the width of 4.8 meters and also it is not in dispute that for approaching such corporation road from the petitioner's unapproved layout, there is an accessible road plying and the same is being used as common road by the plot owners. In such a case, absolutely there is no impediment for the 4th respondent to consider the claim of the petitioner with regard to the regularization as his claim clearly meets out the requirement as referred to in Rule 7(d) of the said Rules. From a plain reading of the said rule, it gives a clear understanding that the public road need not to be there adjoining to the unapproved layout whereas if the layout is capable of gaining access from a public road through an approach road used by the plot owners, that would be suffice for regularization and hence the argument advanced by the learned counsel for the 4th respondent is not in dispute and does not have merit acceptance.

13. Moreover, it has been pointed out by the learned counsel



for the petitioner that before the said Rule was come in to existence, certain plots have been sold through registered sale deeds and those are in possession of respective purchasers. In such a case, the 4th respondent need not to have waited in considering the petitioner's case merely because an objection has been raised by one K.Somasundaram. On perusal of the records, it is found that even the said K.Somasundaram has raised his finger only in respect of the land owned by one Sathish Kumar and not by the petitioner. In such a case, the 4th respondent should not have kept the petitioner's application pending without passing orders granting the relief of regularization as the petitioner has meted out the requirements namely availability of having access to a public road which has the width of 4.8 meters and as such his prayer can be positively considered. It is informed by the learned counsel for the petitioner, except the aforesaid objections, nothing has been objected by the 4th respondent for consideration of his application dated 07.04.2018.

14.In the result:

(a)the writ petition is allowed;

(b)the 4th respondent is directed to pass an order regularizing the petitioner's unapproved layout which is for an extent of 1.85 acres situated in T.S.No.1292/2 in Melur Village, Srirangam Taluk, Tiruchirapalli District based on his application pending with the 4th respondent vide Registration No.DTCP/L/0074539/2017 dated 07.04.2018;

(c)the said exercise shall be done within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Vacation Officer)

/True Copy/

Sub Assistant Registrar

To

1.The District Collector,
Tiruchirapalli District,
Tiruchirapalli - 1.

2.The Commissioner,
Tiruchirapalli City Municipal Corporation,
Tiruchirapalli - 1.

3.The Commissioner,
Town & Country Planning,
Opposite to LIC Buildings,
Anna Salai, Chennai - 2.



4.The Member Secretary,
Tiruchirapalli Local Planning Authority,
Tiruchirapalli.

+1cc to M/S SPECIAL GOVERNMENT PLEADER, Sr.No. 66400
+1 CC TO Mr. R.NIRESH KUMAR , Advocate, Sr.No. 66458

VSV

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30.05.2018