

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2019

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.256 of 2019

A.S.Angammal

... Petitioner

Vs.

1.The Director of Town and Country Planning,
807, Anna Salai,
Chennai 600 002.

2.The Deputy Director of Town and Country Planning,
No.6, Sannathi Street,
Subramania Nagar,
Suramangalam 636 005,
Salem District.

3.The Block Development Officer,
Pallipalayam,
Komarapalayam Taluk,
Namakkal District.

4.The Sub Registrar,
Sub Registrar Office,
Komarapalayam 638 183.
Namakkal District.

5.R.Narendra Kumar Nakhat

... Respondents

PRAYER : Petition filed under Article 226 of The Constitution of India praying to issue a writ of Mandamus, forbearing the respondents 1 to 3 from granting layout plan approval for the lands measuring 4.90 acres bearing S.No.302/2, Komarapalayam Amani Village, Komarapalayam Taluk, Namakkal District owned by the fifth respondent who has shown the petitioner's patta lands in S.F.Nos.291/2 and 301/1 as an access on the north of his layout called 'Thulasi Estate' by considering the petitioner's representations dated 27.05.2018 and 01.07.2018.

For Petitioner : Mr.N.Manokaran

For Respondents: Mr.N.Inbanathan,
Addl.Govt.Pleader for R1, R2 & R4
Mr.R.Prathap Singh for R3
Mr.R.Ramasubramanian Raja for R5

O R D E R

The petitioner has filed the present writ petition to issue a writ of Mandamus to forbear the respondents 1 to 3 from granting layout plan approval for the lands measuring 4.90 acres bearing S.No.302/2, Komarapalayam Amani Village, Komarapalayam Taluk, Namakkal District owned by the fifth respondent who has shown the petitioner's patta lands in S.F.Nos.291/2 and 301/1 as an access on the north of his layout called 'Thulasi Estate' by considering the petitioner's representations dated 27.05.2018 and 01.07.2018.

2. According to the petitioner, the petitioner is the owner of the property comprised in S.F.Nos.291/2 and 301/1 of Komarapalayam Amani Village and the fifth respondent is the owner of the property ad-measuring 4.90 acres comprised in S.Nos.302/1, 302/3, 302/5 and 302/7, Komarapalayam Amani Village. The fifth respondent developed the property comprised in S.No.302/2 as an unapproved house sites in the name and style as 'Thulasi Estate'. The fifth respondent has no right of access through the petitioner's land to the National Highways and he has a separate right of access to Komarapalayam - Thiruchengode Main Road. The right of entry through S.Nos.291/3 and 291/4 to other layouts was obstructed by the Government for the purpose of building Police Headquarters. Therefore, a suit was filed in O.S.No.347 of 2015, on the file of the Principal District Munsif Court, Tiruchengode, in respect of the passage in S.Nos.291/3 and 291/4 and another suit was filed in O.S.No.265 of 2016, before the Principal District Munsif Court, Thiruchengode, against the District Collector, Namakkal and others, in respect of the passage formed in S.Nos. 297, 298, 299, 294, 300, 301 and 303. Both the suits are pending.

3. Without disclosing the aforesaid facts, the fifth respondent has approached the respondents 1 to 3, to get the layout plan approval for his land, showing the petitioner's land as a pathway. Therefore, the petitioner has made a representation dated 27.05.2018 by objecting the grant of any approval to the fifth respondent who attempting to form the road in the petitioner's land without the consent of the petitioner.

4. The learned counsel appearing for the fifth respondent submitted that the above said facts are incorrect and strongly objected the grant of any relief to the petitioner.

5. The learned Additional Government Pleader appearing for the respondents 1,2 and 4 would submit that the petitioner's representation dated 27.05.2018, would be considered in accordance with law by providing an opportunity of hearing to the parties concerned.

6. By considering the submissions of the learned counsel on both sides, without going into the merits of the case, this Court directs the respondents 1 to 4 to consider the representation of the petitioner dated 27.05.2018, in accordance with law, after affording an opportunity of personal hearing to the petitioner as well as the fifth respondent and pass appropriate orders, within a period of twelve weeks from the date of receipt of a copy of this order.

7. With the above observations, this writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

gsk

To

- 1.The Director of Town and Country Planning,
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Chennai 600 002.
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Komarapalayam Taluk,
Namakkal District.
- 4.The Sub Registrar,
Sub Registrar Office,
Komarapalayam 638 183.
Namakkal District.

+1cc to Mr.M.Manokaran, Advocate, S.R.No.11065
+1cc to the Government Pleader, S.R.No.12317
+2cca to Mr.B.Raviraja, Advocate, S.R.No.10845
+1cc to Mr.R.P.Prathap Singh, Advocate, S.R.No.10896

W.P.No.256 of 2019

SAI (CO)

rrs 26/02/2019