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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 12.09.2019

Pronounced on : 04.10.2019

CORAM

THE HONOURABLE DR.JUSTICE VINEET KOTHARI
and

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.6140 of 2018

and W.M.P.No.7567 of 2018

S.Kuppusamy

.. Petitioner

.Vs.

- 1.State of Tamil Nadu,
Rep.by Secretary, Revenue Department,
Fort St.George,
Chennai.
- 2.The Director of Town and Country Planning
No.807, Anna Salai, Chennai.
- 3.The District Collector,
Tiruppur District, Tiruppur.
- 4.The Deputy Director (Panchayats)
Rural Development Division,
Collectorate, Tiruppur.
- 5.The Executive Engineer,
TANGEDCO, Udumalai Road,
Dharapuram.
- 6.The Executive Officer,
Koundachi Pudhur Panchayat,
Siddha Rowthan Palayam Village,
Dharapuram Taluk,
Tiruppur District.
7. P.Subramani
- 8.K.Manoprasath

(R7 Impleaded as per order dated 12.7.2018
in W.M.P.No.20862 of 2018 in W.P.No.6140/2018
R8 Impleaded as per order dated 27.07.2018



in WMP.No.21271/2018 in W.P.No.6140/2018)

9. P.Natarajan

(R9 impleaded vide order dated 02.07.2019, made in W.M.P.No.15175/2019 in W.P.No.6140/2018)

.. Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus directing the respondents to consider the representations of the petitioner dated 23.08.2017, 28.08.2017, 22.11.2017, 21.12.2017, 29.01.2018 and 10.02.2018 and to take appropriate action to disconnect electricity service connections and demolish the unauthorised constructions made on the plots in the unapproved layout formed in the wet lands comprised in R.S.o.82/2 to 82/9, R.S.Mo.84/1,2,3A,3B & 3D, the layout known as Cibi Garden and layout in R.S.No.134/2 & 134/5B of Dharapuram south Village, within the local limits of 6th respondent Panchayat and not to permit sale of unapproved plots and not to grant any planning permit and building permit for construction of any building in the said unapproved layout formed in the wet lands.

For Petitioner	:	Mr.V.P.Sengottuvel
For R1 to R3	:	Mr.V.Jayaprakash Narayanan Government Advocate.
For R5	:	Mr.S.K.Rameshuwar
For R7	:	Mr.P.Wilson, Senior Counsel for Mr.R.Neelakandan
For R8	:	Mr.Ma.P.Thangavel
For R9	:	Mr.S.Thirumavalavan

O R D E R

C.SARAVANAN, J.

The petitioner has filed the present writ petition and has prayed for considering his representations dated 23.08.2017, 28.08.2017, 22.11.2017, 21.12.2017, 29.01.2018 and 10.02.2018 and to take appropriate action to disconnect electricity service connections and demolish unauthorized constructions made on plots in the unapproved layout on formed the wet lands comprised in R.S.No.82/2 to 82/9, R.S.No.84/1,2,3A, 3B & 3D of the layout known as Cibi Garden and layout in R.S.No.134/2 & 134/5B of Dharapuram South Village, within the limits of 6th respondent Panchayat and to not permit sale of unapproved plots and not to



grant any planning permit and building permit for construction of any building in the aforesaid site.

2. The learned counsel for the petitioner submitted that unauthorised construction have been put up contrary to the law on the wet lands by encroaching and contrary to the direction issued by the second respondent in ROC.No.24935/10GR dated 07.03.2011.

3. It is stated that the petitioner sent several representations to the third respondent. However, no action was taken by the third respondent. Therefore, the petitioner has filed the present writ petition.

4. After the writ petition came to be filed , the petitioner has filed the petition for impleading third parties who were impleaded as respondents 7 to 9.

5. Heard the learned counsel for the petitioner and the respondent and perused the materials available on records.

6. Pursuant to the order dated 02.02.2015 in W.P.No.2032 of 2015 guidelines have been framed by the District Collector on 09.04.2015 and the District Collector passed an order of prohibiting the sale of plots in the lay out. Challenging the said order, W.P.No.14879 of 2015 was filed and the same has been disposed .

7. The Government has later issued G.O.Ms.No.78 dated 04.05.2017 as amended by G.O.Ms.No.172 dated 13.10.2017 rules for Regularisation of Unapproved Plots and Layouts Rules, 2017 under Section 113 read with Section 122 of the Tamil Nadu Town and Country Planning Act, 1971 to regularise the unapproved layouts, which were in existence before 20.10.2016. Based on the above Government orders, the Block Development Officer, Dharapuram informed the petitioner by a letter dated 20.03.2018 that as per G.O.Ms.No.78 dated 04.05.2017 read with G.O.Ms.No.172 dated 13.10.2017 that about application for 46 unapproved plots under the regularisation scheme a proposal has been forwarded to the Town and Country Planning Department and on receipt of the orders from the said departments action will be initiated.

8. The 3rd respondent has stated that on the basis of the order of this Court the Special Officer of the concerned Panchayat has been directed to cancel the building approval granted in favour of individuals. Accordingly, the Special Officer cancelled the approval given by the Development Officer by a letter dated 25.05.2018 and directed the Junior Engineer Tamilnadu Electricity Board (Town) Dharapuram to take appropriate action; since in survey No.82/2 to 82/9, 84/1,2,3A, 3B,3D and survey No.134/2,134/5B since the constructions made in the above survey numbers were unauthorised.



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9. It is further stated that by an order dated 05.06.2018, the Secretary of Panchayat, Goundachipudur has been placed under the suspension on the ground that he violated the District Collector's order. Further, Surcharge notice has been issued to the Village Panchayat President for granting approval for the construction of the building in the unapproved layout.

10. It is further stated that by an order dated 21.05.2018 the Deputy Director, Town and Country Planning, Salem Region, Salem has now issued in Principal approval of the unapproved plots situated in Re-survey Nos.82/2,3,5 part, 6, part 7, 8, 9, 83/1, 84/1,2,3A,3B,3C,3D total 5.87 acres in "Cibi Garden" Chitarvuthanpalayam Village, Goundachipudur Panchayat, Dharapuram Taluk/Panchayat Union, Tiruppur District based on the references of Government orders G.O.Ms.No.78 dated 04.05.2017 & G.O.Ms.No.172 dated 13.10.2017.

11. The 5th respondent has stated that the respondents 1 to 4 and 6 will take action to demolish illegal unauthorised constructions on the above said RS No.84/1, 2, 3A, 3B & 3D in the layout known as CIBI Garden and layout in RS.No.134/2 & 134/5B of Dharapuram South Village and the Electricity connection given therein will be disconnected at the time of demolishing.

12. The 7th respondent had also filed W.P.No.20801 of 2018 for the following relief:-

"Writ of Mandamus, directing the 2nd respondent to complete the entire process of regularization of plots in "Sibi Garden" comprised in Re-survey Nos.82/2,3,5 Part, 6 Part 7, 8, 9, 83/1, 84/1, 84/2, 84/3A, 84/3B, 84/3C and 84/3D having an extent of 5.87 acres situated in Sittharavuthuththanpalayam, Goundachipudur Panchayat, Dharapuram Taluk in Tiruppur District as per the order in Na.Ka.No.7022/2017-Se/Ma.3, dated 21.05.2018 passed by 1st respondent, Regional Planning Authority viz., Deputy Director of Town and Country Planning, Salem Region, within a reasonable period".

12. By an order dated 22.11.2018, the above writ petition was disposed with the following observations"



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" Considering the above facts and circumstances, the second respondent is directed to consider the representation of the petitioner and pass suitable orders pursuant to the order passed by the 1st respondent dated 21.05.2018 within a period of eight weeks from the date of receipt of the copy of this order. With the said directions, the writ petition stands disposed of. No costs ".

13. Private respondent, Respondent No.7 in his counter has submitted as follows:-

"13. I submit that as stated above, I made an on-line application on 07.12.2017 in No.DTCP/L/0034688/2017 for approval of lay-out in the above said properties. By considering the same, the Deputy Director of Town and Country Planning, Salem Region (Regional Planning Authority) by his proceedings in Na.Ka.No.7022/2017-Se-Ma.3 Dated 21.05.2018 regularised the above said lay-out and granted in principle approval with Regularized Lay-out No.347/2018 and DTCP.No.426/2018. The above said order has been passed after referring to the Government Orders in G.O.78, Housing and Urban Development Department (UD4(3)) dated 04.05.2017 and also Government Orders in G.O.172, Housing and Urban Development Department (UD4(3)) dated 13.10.2017."

14. The 7th respondent had also filed W.P.No.20801 of 2018 for the following relief:-

"Writ of Mandamus, directing the 2nd respondent to complete the entire process of regularization of plots in "Sibi Garden" comprised in Re-survey Nos.82/2,3,5 Part, 6 Part 7, 8, 9, 83/1, 84/1, 84/2, 84/3A, 84/3B, 84/3C and 84/3D having an extent of 5.87 acres situated in Sittharavuthuththanpalayam, Goundachipudur Panchayat, Dharapuram Taluk in Tiruppur District as per the order in Na.Ka.No.7022/2017-Se/Ma.3, dated 21.05.2018 passed by 1st respondent, Regional Planning Authority viz., Deputy Director of Town and Country Planning, Salem Region, within a reasonable period".

15. By an order dated 22.11.2018, the above writ petition was disposed with the following observations"

" Considering the above facts and circumstances, the second respondent is



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directed to consider the representation of the petitioner and pass suitable orders pursuant to the order passed by the 1st respondent dated 21.05.2018 within a period of eight weeks from the date of receipt of the copy of this order. With the said directions, the writ petition stands disposed of. No costs ".

16. We have considered the submissions of the learned counsel for the petitioner and the learned Government Advocate and for private respondents 5, 7 to 9 who were impleaded subsequently.

17. We are not going to deal with the disputed question of facts. Suffice to state that vide G.O.(Ms)No.78 dated 04.05.2017, an amended by G.O.Ms.No.178 dated 13.10.2017, the Government has announced Regularisation of Unapproved Plots and Layout Rules, 2017 under Section 113 read with Section 122 of the Tamil Nadu, Town and Country Planning Act, 1971.

18. The notification specifically restricts the regularization to categories other than those excluded. Rules 4 of the said G.O.reads as under:

4. Restriction for Regularization of Unapproved Plots and Layout:-

" 1) No plot or layout in part or whole, which is located in public water body like Channel, Canal, Tank, Lake, River, etc., shall be eligible for regularization.

2) No plot or layout in part or whole in Government Poramboke land shall be eligible for regularization.

3) No plot or layout in Open space reservation (OSR) land, Park or Play field reserved in any approved layout of sub-division shall be considered for regularization.

4) Vacant plots blocking access to surrounding lands which do not have any other means of access are not eligible for regularization.

5. No plot or layout in part whole, lying in the lands affected by the alignments of proposed road or rail corridors and street alignments specified in the development plans shall be regularized.

6. No plot with any encroachment on to



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a public road or street or on any other land over which the applicant does not possess ownership right and lands affected by the repealed Tamil Nadu Urban Land (Ceiling and Regularization) Act, 1978 (Tamil Nadu Act 24 of 1978) shall be considered for regularization.

7) No plot or layout in part or whole, lying in the lands below the alignment of high tension and extra high voltage electric line including tower lines shall be regularised."

19. It appears that the private respondents and others have filed the application for regularization of plots as per Rules Regularization of Unapproved Plots and Layouts Rules, 2017 under Section 113 read with Section 122 of the Tamil Nadu Town and Country Planning Act, 1971. The issue is pending before the competent authority under the aforesaid Rules. The competent authority has to consider the application and pass appropriate orders as to whether to regularize or not to regularise unapproved plots in terms of the aforesaid Rules.

20. The abovesaid Rule shall be kept in mind while approving the Unapproved plots by the Competent Authority while passing appropriate orders. The Competent Authority shall therefore pass assessment order within a period of six weeks from the date of receipt of a copy of this order. In case, the application is rejected, the competent authority is directed to take appropriate action.

21. The writ petition stands disposed in terms of the above observation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Insp Cell)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary, State of Tamil Nadu,
Revenue Department,
Fort St.George, Chennai.

2.The Director of Town and Country Planning



No.807, Anna Salai, Chennai.

3.The District Collector,
Tiruppur District, Tiruppur.

4.The Deputy Director (Panchayats)
Rural Development Division,
Collectorate, Tiruppur.

5.The Executive Engineer,
TANGEDCO, Udumalai Road,
Dharapuram.

6.The Executive Officer,
Koundachi Pudhur Panchayat,
Siddha Rowthan Palayam Village,
Dharapuram Taluk,
Tiruppur District.

+1cc to Mr.Thangavel, Advocate, S.R.No. 85763
+1cc to Mr.R.Neelakandan, Advocate, S.R.No. 85562
+1cc to Mr.Sengottuvel, Advocate, S.R.No. 84670
+1cc to the Government Pleader, S.R.No. 85128

W.P.No.6140 of 2018
and W.M.P.No.7567 of 2018

MG(CO)
GN(01/11/2019)