

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.07.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.2179 of 2010

and

M.P.No. 2 of 2010

S.Palaniammal

..Petitioner

vs

1. The District Collector
Coimbatore District
Coimbatore.

2. The Assistant Director,
Town Panchayats,
Kovai Division,
Collectorate,
Coimbatore - 18.

3. The Executive Officer,
Thudiyalur Town Panchayat,
Thudiyalur,
Coimbatore District.

4. N.Vanitha @ Kousalya

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ order or direction in the nature of writ of Certiorari, calling for the records pertaining to the approval issued in favour of the 4th respondent by the 3rd respondent vide his proceedings in approval no. 140/09-10 dated 29.06.2009 on the file of the 3rd respondent and quash the same as illegal, incompetent and illegal.

For Petitioner
For Respondents

: Mr.Ma.P.Thangavel
: Mrs.K.Bhuvaneswari, AGP
for R1 to R3
M/s.L.Mouli
for R4

O R D E R

The prayer sought for herein in this Writ Petition is for issuance of a Writ of Certiorari, calling for the records pertaining to the approval issued in favour of the 4th respondent by the 3rd respondent vide his proceedings in approval no. 140/09-10 dated 29.06.2009 on the file of the 3rd respondent and quash the same as illegal, incompetent and illegal.

2. The instant writ petition has been filed assailing a planning permission dated 29.06.2009 issued to the fourth respondent by respondent no.3 i.e., The Executive Officer, Thudiyalur Town Panchayat, Thudiyalur, Coimbatore District, before the petitioner.

3. The planning permission pertains to land comprised in S.F.No.90/3, Thudiyalur Village, Coimbatore District.

4. The writ petition is predicated on the pivotal point that the land on which the fourth respondent has been granted permission to put up superstructure vide the above said impugned planning permission, does not belong to the fourth respondent. It is the further case of the writ petitioner that it belongs to her, vide a Civil Court decree dated 28.02.2005 made in O.S.No.1575 of 2002 on the file of the III Additional Sub Judge, Coimbatore.

5. While being so, the petitioner has to claim right over the property. He has to approach the competent Civil Court of law against the 4th respondent and other 3rd respondent. This Court cannot decide the disputed questions of fact under Article 226 of the Constitutional of India and the writ petition pending for more than 9 years before this Court without any interim order. Hence, I do not find anything survives for further adjudication in this matter.

6. However, this Court is inclined to grant liberty to the petitioner to workout the necessary remedy before the appropriate forum in the manner known to law.

7. Accordingly, the writ petition stands closed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(insp cell)

//True Copy//

Sub Assistant Registrar

kmm

To

1. The District Collector
Coimbatore District
Coimbatore.

2. The Assistant Director,
Town Panchayats,
Kovai Division,
Collectorate,
Coimbatore - 18.

3. The Executive Officer,
Thudiyalur Town Panchayat,
Thudiyalur,
Coimbatore District.

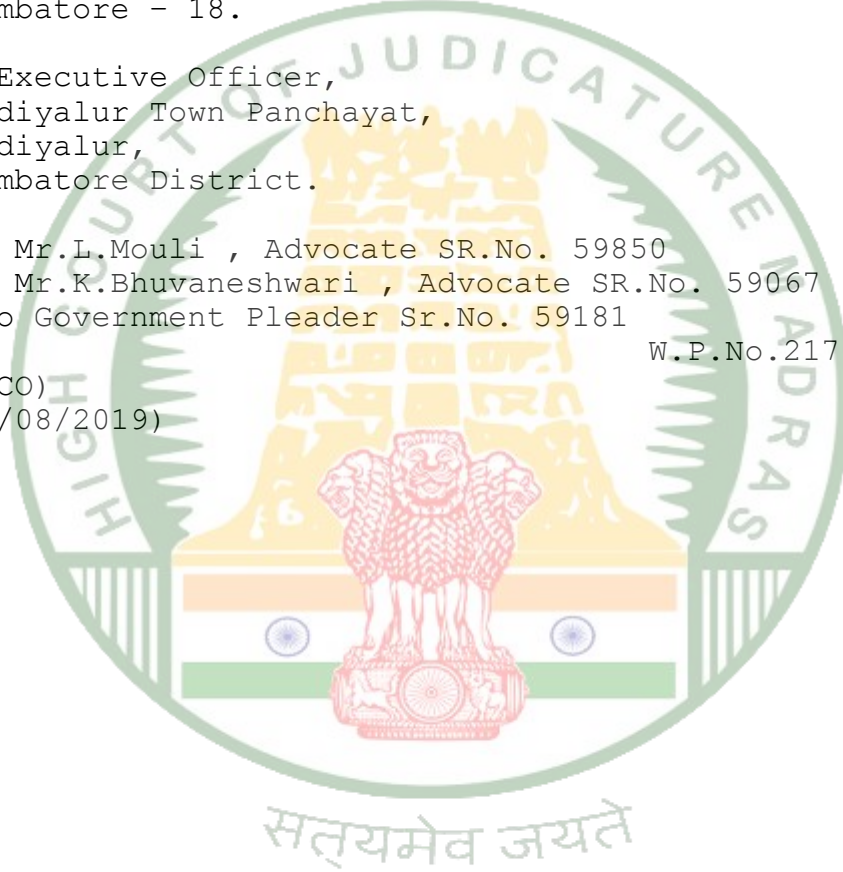
+1cc to Mr.L.Mouli , Advocate SR.No. 59850

+1cc to Mr.K.Bhuvaneshwari , Advocate SR.No. 59067

+1 cc to Government Pleader Sr.No. 59181

W.P.No.2179 of 2010

RGN (CO)
A.SK(21/08/2019)



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