

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.02.2019

CORAM

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.3145 of 2019
and
W.M.P.No.3411 of 2019

S.Murugesan
S/o.Late Sengoda Gounder,
Panchakattu Thottam,
Nathipalayam Village, Kangampalayam
Gobi Taluk, Erode District ...PETITIONER

Vs.

- 1 The Deputy Director of Town
and Country Planning,
No.6 Subramaniam Nagar,
Suramangalam, Salem 636 302
- 2 The District Collector
Erode District Erode 638 011
- 3 The Assistant Director of
Rural Development Panchayats Erode 638 011
Erode District
- 4 The Block Development Officer,
Gobichettipalayam Erode District
- 5 M.Loganathan
S/o.Marimuthu 55A Main Street
Aandipalayam Odathurai Post Bhavani Taluk
Erode District. ...RESPONDENTS

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents 1 to 4 to take action against the 5th respondent for the construction of a drainage canal in the unapproved layout called Jayam Nagar comprised in S.F.Nos. 105 and 106 and for linking it with the seepage canal which runs through the petitioners patta land in S.F.No.104 of Nadhipalayam Village

Gobichettipalayam Taluk Erode District by considering his representations dated 3.11.2018 and 4.1.2019.

For Petitioner : Mr.N.Manokaran

For Respondents

1 to 3 : Mr.V.Shanmugasundaram, Spl.G.P.

For Respondent No.4: Mr.G.P.Rajesh

For Respondent No.5: Mr.S.P.Yuvaraj

O R D E R

According to the petitioner, petitioner owned agricultural lands measuring 3 acres bearing S.F.No.104, Nadhipalayam Village, Gobichettipalayam Taluk. After the death of his father late Sengoda goundar, the petitioner continued to be in exclusive possession and enjoyment of the lands in S.F.No.104 of the aforesaid village. The 5th respondent had purchased agricultural lands comprised in S.F.Nos.105 & 106 which are located on the souther side of East - West Kangampalayam and he has virtually converted the fertile lands into unapproved house sites and then he has formed an access road on the western side of the proposed unapproved house sites. Thereafter, he has dug a deep pit for the purpose of formation of drainage and it has been purposely extended and connected with the existing seepage canal which runs through the various survey fields and also crossing over petitioner's land in S.F.No.104 of the aforesaid village. The petitioner came to know that the 5th respondent neither obtained any approval or planning permission from the respondents 1 to 4, nor has made any arrangements to divert the drainage water from the unapproved house sites through some other source. Hence, the petitioner made representation to the respondents 1 and 2 to take action against the 5th respondent. The 5th respondent has formed the unapproved layout in the name and style of "Jayam Nagar" for the formation of 60 house sites. Therefore, the petitioner has filed the present writ petition before this Court to take action against the 5th respondent.

2. The learned Spl. Government Pleader appearing for the respondents 1 to 3 would submit that the petitioner made representation to the first and second respondents. According to the learned Spl. Government Pleader, the first respondent is the authority for granting approval for the layout and the 4th respondent is the authority for granting building permission.

3. The grievance of the petitioner is that the 5th respondent has constructed drainage canal for unapproved layout and linked with the existing seepage canal, crossing over the petitioner's land. Admittedly, as on today, neither the first respondent has granted any approval nor the fourth respondent has granted building permission to the 5th respondent for construction of drainage canal. The drainage canal alleged to have been constructed and linked with the seepage canal crossing over the petitioner's land would certainly affect the right of the petitioner. Therefore, if there is any unauthorised construction of drainage canal and the same is linked to the seepage canal, petitioner's representation to the second respondent will be considered for taking action against the 5th respondent.

4. Therefore, the second respondent is directed to consider the petitioner's representation, dated 3.11.2018 and pass appropriate orders on merit and in accordance with law, after providing opportunity to the petitioner as well as the 5th respondent, as expeditiously as possible, preferably within a period of 12 weeks from the date of receipt of a copy of this order.

5. The writ petition is disposed of with the above directions. No costs. Connected miscellaneous petition is closed.
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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Deputy Director of Town and Country Planning,
No.6 Subramaniam Nagar,
Suramangalam, Salem 636 302
- 2.The District Collector
Erode District Erode 638 011
- 3.The Assistant Director of Rural Development,
Panchayats Erode 638 011, Erode District

4.The Block Development Officer,
Gobichettipalayam Erode District

+1cc to Mr.N.Manokaran, Advocate, S.R.No.12009

+1cc to Mr.SP.Yuaraj, Advocate, S.R.No.12091

+1cc to the Government Pleader, S.R.No.12318

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Kak(18/03/2019)



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