

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2019

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.26025 of 2010
and MP.No.1 of 2011

1.B.Rukmani,
2.Raamjee R.B.
3.B.Siddarth

...Petitioners

Versus

1. The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore.

2. The Assistant Commissioner,
Corporation of Coimbatore,
Eastern Zone, Coimbatore.

3. Mr.R.Soundarajan

....Respondents

PRAYER:

Writ petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the entire records in connection with the impugned planning permission granted by the respondents 1 and 2 in Building Plan Approval No.274/07/H1(E) dated 23.04.2007 and quash the same and consequently direct the 3rd respondent to restore the land in S.F.No.291, Singanallur Village, Coimbatore to its original position.

For Petitioner : Mr.M.Sriram
For Respondents : Mr.R.Sivakumar for RR1 and 2
Mr.R.Vasudevan for R3

O R D E R

This Writ Petition has been filed to quash the impugned planning permission granted by the respondents 1 and 2 in Building Plan Approval No.274/07/H1(E) dated 23.04.2007 and consequently direct the 3rd respondent to restore the land in

S.F.No.291, Singanallur Village, Coimbatore to its original position.

2.The land in S.F.No.291, Singanallur Village originally belongs to the petitioner's paternal grandfather Mr.Ragupathy Naidu and he has two sons and two daughters. One of the son is the petitioner's father, viz. R.Balasundaram and another is R.Soundarajan, the 3rd respondent herein. Petitioner's father died on 27.08.2006 leaving behind the petitioners herein as his legal heirs. Petitioner's grandfather had settled about 64½ cents to the 3rd respondent through a gift deed dated 14.06.2006. The 3rd respondent with a view to develop the said land started construction after getting building plan approval from the 2nd respondent. The lie of the land is such that there is no connection to the Trichy road except by 20 feet pathway earmarked by the petitioner's grandfather. On the basis of this pathway, no sanction can be accorded for a multistoried building. The Corporation without even getting the land earmarked for road has hastily sanctioned the plan for construction of the flats. Challenging the said building approval by the 2nd respondent, the petitioner has filed the present petition with the aforesaid prayer.

3.Heard Mr.M.Sriram, learned counsel appearing for the petitioner, Mr.R.Sivakumar, learned counsel appearing for respondents 1 and 2 and Mr.R.Vasudevan, learned counsel appearing for 3rd respondent.

4.The learned counsel for the petitioner submitted that though the writ petition is filed in the year 2010 itself, no interim order was granted pending writ petition. He further submitted that he does not know whether the construction of the building by the 3rd respondent is stopped or not.

5.The learned counsels for respondents 1 and 2 submitted that the petitioner is well aware of the impugned building plan, which was issued on 23.04.2007. Thereafter, on the strength of the building permission, the 3rd respondent had constructed the said building consisting of 40 individual apartments and the buyers have occupied the same. Subsequently, the writ petition came to be filed after lapse of three years. He further submitted that it is purely a private dispute between the petitioners and the 3rd respondent. Therefore, he seeks for dismissal of the writ petition.

6.In view of the above submissions made on either side, it is seen that even before filing this writ petition, the 3rd respondent had constructed the building only after getting building approval from the respondents 1 and 2. Hence, I do not find any merits to quash the building plan approval granted by

the respondents 1 and 2. Accordingly, this writ petition fails and the same stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore.
2. The Assistant Commissioner,
Corporation of Coimbatore,
Eastern Zone, Coimbatore.

+1cc to Mr.R.Sivakumar, Advocate, S.R.No.67237

+1cc to Mr.R.Vasudevan, Advocate, S.R.No.66406

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MG(CO)
CS/16/09/2019



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