

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2019

CORAM :

THE HONOURABLE MR. JUSTICE T. RAJA

W.P. No.3793 of 2014

and

M.P. No.1 of 2014

S.R.Ravichandran

... Petitioner

.Vs.

- 1.The State
Rep. by its Secretary to Government,
Housing and Urban Development Department,
Fort St. George,
Chennai.
- 2.The Commissioner,
Office of Town and Country Planning,
807, Anna Salai,
Chennai - 2.
- 3.The District Collector, Coimbatore,
Huzur Road,
Near Railway Station,
Coimbatore - 18.
- 4.The Coimbatore Local Planning Authority,
Coimbatore Corporation Complex,
Raju Naidu Street,
Tatabad,
Coimbatore - 12.
- 5.The Commissioner,
Corporation of Coimbatore,
Raja Salai, Coimbatore - 1.
- 6.The Assistant Commissioner,
Corporation of Coimbatore East Zone,
Trichy Road, Singanallur,
Coimbatore - 641 005.

7.V.ShivaShanmugam

8.C.Marappan

9.R.Ranagaraju

10.K.Palani samy

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 1st respondent to consider and pass orders on petitioner's representation dated 01.12.2013.

For Petitioner : Mr.A.K.Jayaraj

For R1 to R3 : Mr.V.Shanmuga Sundar
Special Government Pleader

For R4 : Mr.V.Jaisankar

For R5 & R6 : Mr.S.Saravanan
Standing Counsel

For R7 to R10 : Mr.P.Saravana Sowmiyan

O R D E R

Mr.S.R.Ravichandran has come to this Court with this writ petition, seeking a writ of mandamus to direct the Secretary to Government, Housing and Urban Development Department, Chennai, to consider his representation dated 01.12.2013.

2.Learned counsel appearing for the petitioner submitted that the petitioner's property is situated in S.F.Nos.624, 643 and 644 in Singanallur Village East at Coimbatore. On the basis of a partition deed dated 23.08.2006, the petitioner's mother received her share and on the same day, she executed a settlement deed in favour of the petitioner. Since then, the petitioner is in possession and enjoyment of the said land. While so, a layout was formed in the nearby property by some persons in S.F.Nos.627, 628 and 630/1. When the layout was formed, a 40 feet road was laid. In the end of road, OSR was marked by closing the outside boundary by preventing future developments, but the said 40 feet road ought to have joined the land owned by the petitioner. Since the 40 feet road has been stopped within the park land and in between the park land and the petitioner's land, there is no pathway, the petitioner's land is completely squared up and there is no ingress or egress, either to reach the petitioner's land or to come out of the petitioner's land.

3.The learned counsel further contended that the approval granted to the layout itself is against the circular dated 04.05.2006, issued by the Director, Town and Country Planning, which specifically says that, while granting layout approval, the authorities of Town and Country Planning should ensure that the neighbouring lands are not affected by not getting any access to the outside land. Therefore, when the petitioner made representations dated 22.10.2012, 26.10.2013, there was no response. The learned counsel submitted that, even after issuance of lawyer's notice to the respondents on 21.10.2013, requesting them to inform the petitioner as to whether the layout in S.F.Nos.627, 628 and 630/1 has been approved or not, and if approved, to furnish either in its original form or with any changes, a copy of the said approved plan to the petitioner, or if the same is in the process of approval, to approve the same after hearing the objections of the petitioner, yet, no reply has been received by the petitioner. Therefore, the petitioner made a complaint to the Commissioner, Town and Country Planning, Chennai, the 2nd respondent herein, to stop the layout approval, pertaining to S.F.Nos.627, 628 and 630/1, however, even thereafter, the 1st respondent failed to instruct the respondents 2 to 5 to verify, whether any variation has been made in the layout approval.

4.It is pleaded that this layout road, which has been tar-topped, ends on the eastern side with a small stretch of land, shown as reserved site. Immediately, in the east of the alleged reserved site, the petitioner's land in S.F.Nos.624 and 644 is situated. Similarly, a 23 feet wide layout road is shown in the plan in the southern side. This 23 feet layout road reaches the well in S.F.No.643. There are hundreds of acres of lands lying on the eastern side of the respondents' lands, which also could be developed into layouts in future. In view of no access to these lands, the petitioner is unable to develop any of the said lands. For all these reasons, the petitioner made a detailed representation to the 1st respondent on 01.12.2013, calling for records relating to the permission granted to the Commissioner, Town and Country Planning, Chennai, vide proceedings No.5518 dated 16.08.2013 to give the road by way of gift deed in favour of Corporation of Coimbatore. However, till date, the 1st respondent has not passed any order on the representation given by the petitioner. On the other hand, the 2nd respondent has instructed the petitioner to approach the 1st respondent.

5.Finally, as concluding argument, the learned counsel for the petitioner submitted that, in view of the deadlock created as above, the petitioner is neither able to use his land, nor would he be able to develop his land in future, in the event of the layout approval being given in favour of the owners of the lands in S.F.Nos.627, 628 and 630/1, as against the circular

dated 04.05.2006. Therefore, if a direction is given to the 1st respondent to consider the representation of the petitioner in the light of the circular dated 04.05.2006, no prejudice would be caused to anyone.

6.Learned Special Government Pleader, appearing for the respondents 1 to 3 submitted that, before considering the request of the petitioner, it would be useful to get a proposal or recommendation in this regard, from the Commissioner, Corporation of Coimbatore, the 5th respondent herein. Since the 5th respondent has not any proposal/recommendation, they are unable to consider the representation of the petitioner and the same is still pending.

7.Heard the learned counsel on either side.

8.In the light of the submission made by the learned Special Government Pleader, the 5th respondent is directed to send a proposal/recommendation in this regard, to the 1st respondent, within a period of four weeks from the date of receipt of a copy of this order. The petitioner shall also give a fresh representation or a copy of the earlier representation dated 01.12.2013, enclosing a copy of this order, along with a copy of circular dated 04.05.2006, to the 1st respondent, within one week from the date of receipt of a copy of this order. On receipt of both, the 1st respondent is directed to consider the request of the petitioner and pass order on merits and in accordance with law, within a period of eight weeks therefrom.

9.With these directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

mkn

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government,
Housing and Urban Development Department,
Fort St. George,
Chennai.

2.The Commissioner,
Office of Town and Country Planning,
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3.The District Collector, Coimbatore,
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4.The Coimbatore Local Planning Authority,
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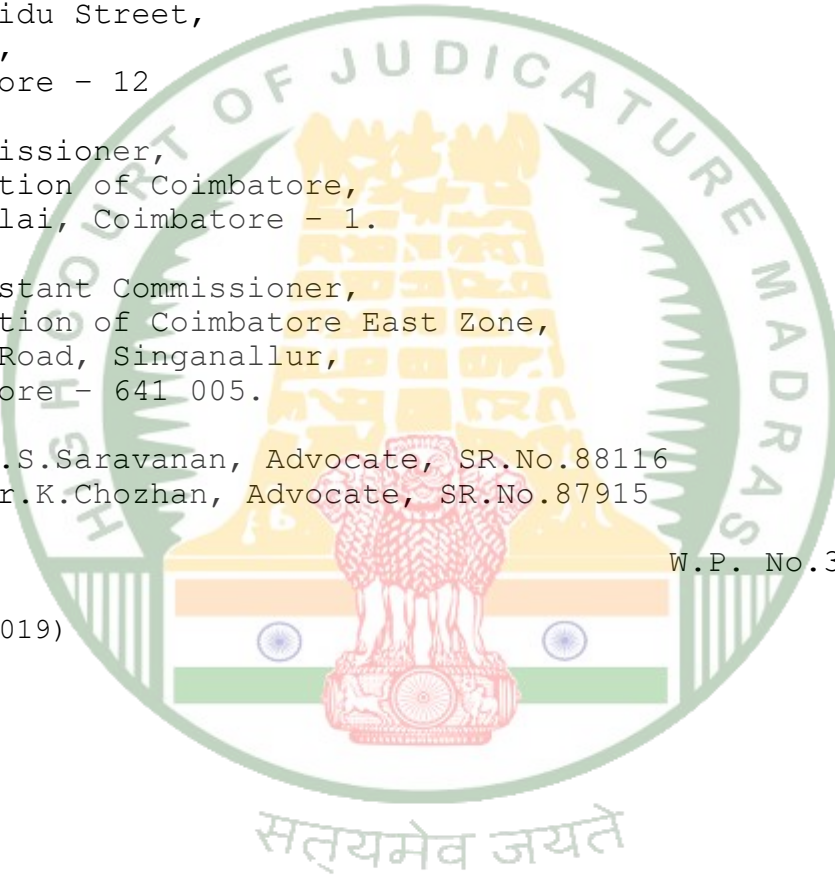
5.The Commissioner,
Corporation of Coimbatore,
Raja Salai, Coimbatore - 1.

6.The Assistant Commissioner,
Corporation of Coimbatore East Zone,
Trichy Road, Singanallur,
Coimbatore- 641 005.

+1cc to Mr.S.Saravanan, Advocate, SR.No.88116
+5CCs to Mr.K.Chozhan, Advocate, SR.No.87915

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Kak(19/11/2019)



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