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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2019

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.22059, 22564 of 2017

& 4240 of 2018

and

W.M.P.Nos.23113, 23114, 23690,
27940, 5227, 5228 & 5229 of 2018

W.P.No.22059 of 2017 :-

Sengodan

S/o.Kalianna Gounder

.. Petitioner

-vs-

1.The District Collector,
Erode District.

2.The District Registrar,
Office of the District Registrar,
Park Road, Gobichettipalayam,
Erode.

3.The Sub Registrar,
Registration Department,
Satyamangalam, Erode.

4.The President/ The Special Officer,
Komarapalayam Village Panchayat,
Satyamangalam Union,
Erode District.

5.C.Shanmuganathan
S/o.Chidambaram

6.B.Sarojini
W/o.K.P.Balasubramanian

7.V.Jayanthi
W/o.K.P.Venkatachalam

8.K.Sumathi,
W/o.K.P.Murthy

.. Respondents

Petition under Article 226 of the Constitution of India
praying for issuance of Writ of Certiorarified Mandamus to call
for the records on the file of the 1st respondent in proceedings



Na.Ka.No.1774/2012/A4 dated 06.07.2017 and quash the same as illegal, incompetent and without jurisdiction and further direct the 1st respondent to proceed as against the violation that had taken place at the instance of respondents 6 to 8 in survey no.155/2 (New S.No.155/2B), Malaiyadipudhur Village, Satyamangalam Taluk, Gobichettipalayam, Erode District in accordance with law.

For Petitioner : Ms.R.Poornima

For Respondents : R1 - Mr.N.Srinivasan,
Additional Government Pleader

: RR2 & 3 - Mr.P.P.Purushothaman,
Government Advocate

: R4 - Mr.R.Govindasamy
Special Government Pleader

: R5 - Mr.A.Thiyagarajan
For Mr.T.Balaji

: R6 to 8 - Mr.S.V.Jayaraman,
Senior Counsel
assisted by Mr.R.Balagursamy

W.P.No.22564 of 2017 :-

C.Shanmughanathan

.. Petitioner

-vs-

- 1.The District Collector/
Inspector of Panchayats,
Erode District, Erode-638 011.
- 2.The Assistant Director (Panchayats),
District Collectorate Office,
Erode District, Erode-638 011.
- 3.The Director of Town and Country Planning,
No.807, Anna Salai, Chennai-600 002.
- 4.The District Registrar,
Office of the District Registrar,
Park Road, Gobichettipalayam.
- 5.The Sub Registrar,
Sathyamangalam, Erode.



6.The Executive Officer/
Special Officer,
Kumarapalayam Village Panchayat,
Sathyamangalam Taluk, Erode.

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7.K.K.Sengodan
S/o.Kalianna Gounder

8.B.Sarojini
W/o.K.P.Balasubramanian

9.V.Jayanthi
W/o.K.P.Venkatachalam

10.K.Sumathi,
W/o.K.P.Murthy

.. Respondents

Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the 1st respondent comprised in the order dated 06.07.2017, bearing reference No. Na.Ka. 1774/2012/A4 and quash the same as arbitrary, illegal, ultra vires the provisions of the Tamilnadu Town and Country Planning Act and consequently forbear the respondents from in any manner altering or dealing with the lands comprised in Survey Nos. 155/2 & 155/3, Malaiyadipudhur Village, Kumarapalayam Panchayat Union, Sathyamangalam Taluk, Erode District, contrary to the approved plan of the 3rd respondent dated 11.08.1998 in Na.Ka.No. 4838/98-LA3.

For Petitioner : Mr.A.Thiyagarajan
For Mr.T.Balaji

For Respondents: RR 1 to 3 - Mr.N.Srinivasan,
Additional Government Pleader

: RR4 & 5 - Mr.P.P.Purushothaman,
Government Advocate

: R6 - Mr.R.Govindasamy
Special Government Pleader

: R7 - Ms.R.Poornima

: R8 to 10 - Mr.S.V.Jayaraman,
Senior Counsel
assisted by
Mr.R.Balagursamy



W.P.No.4240 of 2018 :-

1.B.Sarojini,
W/o.K.P.Balasubramanian

2.V.Jayanthi,
W/o.K.P.Venkatachalam

3.K.Sumathi,
W/o.K.P.Murthy

.. Petitioners

-vs-

1.The District Collector,
Erode District,
Erode-638 011.

2.The Director of Town and Country Planning,
No.807, Anna Salai, Chennai-600 002.

3.The Komarapalayam Village Panchayat,
Rep., by its Special Officer,
Komarapalayam Village,
Sathyamangalam Taluk,
Erode District.

4.The District Registrar,
District Registrar Office,
Gobichettipalayam,
Erode District.

5.The Sub Registrar,
Sathyamangalam,
Erode District.

6.K.K.Sengodan
S/o.K.T.Kalianna Gounder

7.C.Shanmuganathan,
S/o.Chidambaram

.. Respondents

Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned order dated 06.07.2017 made in Na.Ka.No. 1774/2012/A4 and the corrected order dated 06.07.2017 passed by the 1st respondent, quash the same and consequently direct the respondents 1 to 5 to take action against the 6th respondent for the fraud played by him in committing an act of impersonation in filing the application for plan approval dated 29.12.1997 and in consequence thereto.



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For Petitioners: Mr.S.V.Jayaraman,
Senior Counsel
assisted by
Mr.R.Balagursamy

For Respondents: RR 1 & 2 - Mr.N.Srinivasan,
Additional Government Pleader

: R3 - Mr.R.Govindasamy
Special Government Pleader

: RR4 & 5 - Mr.P.P.Purushothaman,
Government Advocate

: R6 - Ms.R.Poornima

: R 7 - Mr.A.Thiyagarajan
For Mr.T.Balaji

COMMON ORDER

In all these three writ petitions, the challenge is to an order passed by the District Collector, Erode, dated 06.07.2017 by which, the District Collector has directed the parties to approach the Civil Court on the ground that there is certain dispute with regard to the title to the property which was developed into a housing layout.

2.Ms.R.Poornima, learned counsel for the petitioner in W.P.No.22059 of 2017 would submit that the petitioner in W.P.No.4240 of 2018 in which Mr.S.V.Jayaraman, learned Senior Counsel is appearing, had signed the application for obtaining layout approval as one of the joint applicants. As the layout approval was obtained in which areas are earmarked for formation of a road, some of the plots have been sold and one of the innocent purchasers is the petitioner in W.P.No.22564 of 2017, viz., C.Shanmughanathan, who is represented by Mr.A.Thiyagarajan, learned counsel for the said petitioner.

3.The contention of the purchaser is that layout has been approved, areas earmarked for road have been gifted to the local body and the same should be maintained as a road and any illegal transaction in respect of the properties which have been earmarked as road has to be cancelled.

4.Earlier, some of the purchasers had approached this Court and filed writ petitions in W.P.Nos.4826 of 2013 and 498 of 2017. The first petitioner in W.P.No.4826 of 2013, viz.,



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B.Sarojini, is the first petitioner in W.P.No.4240 of 2018; the seventh respondent in W.P.No.498 of 2017 is the petitioner in W.P.No.22059 of 2017; and the eighth respondent in W.P.No.498 of 2017 is the petitioner in W.P.No.22564 of 2017. Thus, the main parties to the present litigant were all parties to the earlier litigation. In W.P.No.4826 of 2013, the prayer sought for was to quash the order passed by the District Collector, Erode dated 31.10.2012, and the prayer in W.P.No.498 of 2017 was to issue a direction to allot door numbers and assess the house to property tax.

5.Considering the commonality of the issues involved, the writ petitions were taken up together and disposed of by common order dated 12.04.2017. The Court pointed out that the dispute raised before it cannot be gone into in a writ petition. Further, the Court noted that no enquiry was made by hearing the parties concerned. Consequently, there is violation of principles of natural justice. Accordingly, the writ petitions were allowed. As a consequence, the orders passed by the District Collector, Erode dated 31.10.2012 was set aside and the matter was remanded back for conducting a detailed enquiry pursuance of which, the impugned order was passed.

6.In my considered view, the dispute before this Court can be truncated into two. One is whether there is any violation of the approved layout plan, if there is an approved layout plan. The second issue is who were the persons who were entitled to promote the layout. This second issue needs to be adjudicated before a competent Civil Court and it appears that already parties are before the Civil Court. However, the person who is affected is the purchaser and one purchaser by name C.Shanmughanathan is the petitioner in W.P.No.22564 of 2017 whose interest also has to be taken into consideration and he should not be driven to the Civil Court and get entangled in the litigation between the petitioners Sengodan and B.Sarojini. Therefore, this Court is of the considered view that appropriate direction should be issued to the competent authority to go into the aspect as to whether there was an approved layout plan and if there was an approved layout plan, was there a violation of the conditions of approval, whether any common areas have been used for any other purpose other than the purpose for what it is reserved. If there is any violation in this regard, the competent authority should taken action and the appropriate authority would be the Director of Town and Country Planning who has granted approval for the layout. The other issue with regard to the dispute regarding the title that can be sorted out among the parties before the Civil Court.

7.Hence, for the above reasons, all the writ petitions are allowed and the impugned order passed by the District Collector, dated 06.07.2017 is set aside and the matter is remanded to the



Director of Town and Country Planning, Chennai to nominate an officer to go into the aspect as to whether there was an approved layout plan in respect of the lands in question and if it is so, what are the areas, which have been earmarked as road, whether there is any violation of the approved plan etc. For such purpose, the officer so nominated should conduct an inspection in the presence of parties and if any violation is found, then a proper report should be submitted to the Director of Town and Country Planning who shall pass appropriate orders so that the competent authority shall cancel the documents which have been illegally registered in respect of the lands in common areas. This direction issued to the Director of Town and Country Planning shall be complied with within a period of four months from the date of receipt of a copy of this order.

8. With regard to the dispute inter se between the petitioners in W.P.No.4240 of 2018 and the petitioner in W.P.No.22059 of 2017, it is left open to the parties to agitate their rights before the appropriate Civil Court. During the pendency of these writ petitions, an order of status quo dated 18.08.2017, was passed in W.P.No.22059 of 2017. Since this Court has remanded the matter to the Director of Town and Country Planning with further directions, till orders are passed in terms of the above direction, the status quo with regard to properties in question prevailing as on 18.08.2017 shall be maintained and no further encumbrance shall be created, nor the physical features be altered. It is made clear that any observations made in this order cannot be taken advantage by any of the parties and their respective civil rights which have to be independently agitated before the competent civil forum based on oral and documentary evidence. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

abr

To

1. The District Collector/
Inspector of Panchayats,
Erode District, Erode-638 011.

2. The District Registrar,
Office of the District Registrar,
Park Road, Gobichettipalayam,
Erode.



3.The Sub Registrar,
Registration Department,
Satyamangalam, Erode.

4.The President/ The Special Officer,
Kumarapalayam Village Panchayat,
Satyamangalam Union,
Erode District.

5.The Assistant Director (Panchayats),
District Collectorate Office,
Erode District, Erode-638 011.

6.The Director of Town and Country Planning,
No.807, Anna Salai, Chennai-600 002.

7.The Executive Officer/ Special Officer,
Kumarapalayam Village Panchayat,
Sathyamangalam Taluk, Erode.

+1cc to Ms.R.Poornima, Advocate SR.No.104111

+1cc to Mr.R.Balagursamy, Advocate SR.No.103496

+1cc to Mr.B.Karthik Narayanan, Advocate SR.No.103497

+2cc to Mr.K.David, Advocate SR.No.103495

+1cc to Mr.A.Thiyagarajan, Advocate SR.No.103499

+1cc to Government Pleader SR.No.104051

W.P.Nos.22059, 22564 of 2017 and 4240 of 2018

PP(CO)
GMY(07/01/2020)