

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:08.12.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.No.16973 of 2020

and

WMP No.21065 of 2020

1 K.Srinivas

2 K.Vishnu

...Petitioners

Vs.

1. The Directorate of Town and Country Planning  
Opposite to LIC Buildings  
Chengalvarayan Buildings, 4th floor,  
807, Anna Salai, Chennai.

2. The Assistant Director  
Directorate of Town and Country Planning  
Corporation building Complex 1<sup>st</sup> floor  
Raj Naidu Street,  
Sivanatha Colony, Coimbatore.

3. The District Collector  
Collectorate Buildings  
Tiruppur.

4. The Assistant Director  
Agricultural Department  
Pollachi Road  
Udumalpet.

5. The Tahsildhar  
Kacheri Street,  
Udumalpet.

6 S.Muruganandam

...Respondents

This Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the third respondent to consider the representation of the petitioners dated 07.09.2020 based on the letter issued by the first respondent in proceedings in Na. Ka. No.12392/2020/TCP3 dated 10.09.2020, after hearing the petitioner.

For Petitioners : Mr.N.Umapathi

For Respondents 1 to 5: Mr.E.Balamurugan

Special Government Pleader

ORDER

This Writ Petition has been filed for the issue of a Writ of Mandamus directing the third respondent to consider the representation made by the petitioners on 07.09.2020 and to pass appropriate orders within the time limit fixed by this Court.

2. Heard Mr.N.Umapathi, learned counsel for petitioners and Mr.E.Balamurugan, learned Special Government Pleader for respondents 1 to 5.

3. It is seen from records that the subject property was dealt with by the father of the petitioners and a portion of the property was sold to one Govindaraj by virtue of a sale deed dated 04.12.2004 and the other portion of the property was sold in favour of one Muruganandam by virtue of a sale deed dated 23.04.2008. Both these sale deeds are now a subject matter of challenge before a competent Civil Court and the case of the petitioners is that it is an ancestral property, in which the petitioners have a share and therefore, the sale that was done by the father of the petitioners insofar as their share is concerned is not binding on them.

4. The petitioners have given a representation to the third respondent requesting the third respondent not to give any approval for the lay out that is attempted to be developed by the sixth respondent. Since the representation was not considered, the present Writ Petition has been filed before this Court seeking for appropriate directions.

5. In the considered view of this Court, the petitioners will have to establish before the competent Civil Court that the sale deed that has already been executed by their father is not binding on them. Till such declaration is given by the Court, the petitioners cannot prevent the person, in whose favour the sale deed was executed, to proceed further to put the property to use. If the petitioners are really aggrieved by the action of the private respondent, they should file an appropriate application in the pending civil suit and seek for interim injunction not to create third party right, instead of making representation to the third respondent requesting not to grant any approval for the lay out, which will not solve the problem. In short, the petitioners will have to agitate all the rights only before the Civil Court, in which the suit is pending and appropriate relief should be sought only before the Civil Court and making a representation to the third respondent will be of no avail.

6. In the considered view of this Court, no useful purpose will be served in directing the respondents to consider the representation made by the petitioners and this Court is not convinced to grant the relief sought for by the petitioners.

7. In the result, the Writ Petition is dismissed. It is made clear that the order passed in this Writ Petition will have absolutely no bearing in the pending case before the Civil Court and the Civil Court will have to decide the case on its merits and in accordance with law. No costs. Consequently, connected Miscellaneous petition is closed.

-s/d-  
Assistant Registrar

True Copy

Sub-Assistant Registrar

mra  
To

1. The Directorate of Town and Country Planning  
Opposite to LIC Buildings  
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2. The Assistant Director  
Directorate of Town and Country Planning  
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4. The Assistant Director  
Agricultural Department  
Pollachi Road Udumalpet.
5. The Tahsildhar  
Kacheri Street,  
Udumalpet.

+1 CC to Mr.N.Umapathi, Advocate sr 39545

+1 CC to Government Pleader sr 39819.

W.P.No.16973 of 2020

AD(CO)  
SP(20/01/2021)