

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. No. 27495 of 2015 and
M.P.No.1 of 2015

T.Krishnamoorthi

... Petitioner

Vs

1. The Director,
Town and Country Planning Department,
807, Anna Salai,
Chennai - 600 002.
2. The Deputy Director,
Town and Country Planning Department,
Salem Division,
No.6, Sannadi Street,
Subramaniya Nagar,
Suramangalam,
Salem - 636 005.
3. The District Collector,
Erode District,
Erode.
4. The Block Development Officer,
Chennimalai,
Erode District - 638 051.
5. The President,
Vadamugam Vellode Panchayat,
Perundurai Taluk, Erode District.
6. K.S.Chinnusamy,
President,
Vadamugam Vellode Panchayat,
Perundurai Taluk,
Erode District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, forbearing the respondents proceeding further in any manner pursuant to the notice issued by the fifth respondent dated 04.08.2015 with regard to the

house constructed by the petitioner at Plot.No.481F, Kumaran Nagar, in Re-Survey No.45/2 at Vadamugam Vellode Village in Erode District.

For Petitioner : Mr.N.Kannankumar
For R1 to R3 : Mr.N.Inbanathan
Additional Government Pleader
For R4 : Mr.V.Jayaprakash Narayanan
For R5 : Mr.K.Krishnan
for Mr.K.Dhanajayan
For R6 : Mr.A.Thiagarajan S.C
for Mr.S.Ramesh Kumar

ORDER

The Petitioner claims to have purchased the property which was originally earmarked for a community hall pursuant to a resolution of the 5th respondent dated 01.11.2004. The property was registered in favour of the petitioner by the 5th respondent on 10.03.2005. Thereafter, the petitioner has also put up a house.

2. It is the case of the petitioner that the area that was earmarked for community hall was converted in to six plots and sold to six different persons which included the petitioner. However on account of previous enmity between the petitioner and the 6th respondent, proceedings were initiated by the 6th respondent. The 6th respondent who was the then president of the 5th respondent panchayat has ceased to hold the office after his term came to an end. A counter was filed earlier when the 6th respondent was the President of the 5th respondent Vadamugam Vellode Panchayat.

3. A fresh counter has been now filed on behalf of the 5th respondent, signed by one J.Vasuki, who in her affidavit, has stated as follows:-

"3. It is submitted that the petitioner has purchased the property on 10.03.2005 and enjoying the same. It is submitted that the then President of the Vadamugam Vellode Panchayat have passed a resolution on 01.11.2004, by resolution No.176/2004 have approved the division of community hall into plots and issued approval by the Panchayat.

4. It is submitted that the then Vadamugam Vellode President in his proceedings Mu.Mu.No.11/2005-2006, dated 09.12.2005 had granted permission to construct the building. The petitioner is paying taxes to the Panchayat properly

up to date.

5. It is submitted that the 1st respondent in his letter No.Na.Ka.No.25288/2011/LA2, dated 29.11.2011 has clarified that the plot/land meant for community hall can be sold. Therefore, the petitioner's sale is valid and the petitioner can enjoy the same.

6. It is submitted that the authority under the Town and Country Planning Act, the 1st respondent herein has issued a clarification that the community hall can be sold and no need to hand over the same to the local bodies. Therefore, the petitioner can very well enjoy the same.

7. It is submitted that the community hall have been divided as six plots and one plot has been purchased by the writ petitioner, remaining five plots were enjoyed by other persons. There were no further actions on the other five purchasers. Only, writ petitioner alone was issued with notice and further actions. In this scenario, the action against the writ petitioner may not be correct as per the available records and based on the facts of the case."

4. The learned counsel for the petitioner therefore submits that the writ petition has to be allowed in the light of the above counter of the present president of the 5th respondent/Panchayat. Opposing the prayer, the learned counsel for the 4th respondent/Block Development Officer submits that the approval which was obtained by the 5th respondent in 2004 by the then president was not in accordance with law as only the District Town and Country Planning Authority is empowered to allow such conversion and therefore the 1st respondent/Director of Town & Country Planning Department could not have granted any approval.

5. In any event, he submits that the approval granted on 09.12.2005 merely states that any area such as Shops, Schools, Community Hall and the General Category Places alone can be sold and it did not give any permission to the 5th respondent to convert the community hall in to housing plots. He submits that only the appropriate authority, the 2nd respondent/The Deputy Director, Town and Country Planning Department is competent person who can initiate appropriate proceedings in case of constructions contrary to the approval given by the District Town and Country Planning Department. It appears that there is

a personal rivalry between the petitioner and the 6th respondent. The 5th respondent issued the impugned notice to the petitioner at the instigation of the 6th respondent. The said notice has been impugned in this writ petition.

6. It appears only one of the buyers namely the petitioner alone has been targetted by the 5th respondent Panchayat. The new president of the 5th respondent panchayat has given an affidavit and has stated that the original approval/resolution of the 5th respondent under the presidentship of one M.Muruganandham was correct and that the impugned notice issued at the behest of president of the 6th respondent was incorrect. The question whether such conversion of plot was valid or invalid has to be decided by the 2nd respondent alone. While granting relief to the petitioner in this writ petition, I give liberty to the 2nd respondent/ The Deputy Director, Town and Country Planning Department to initiate appropriate proceedings against the petitioner and other persons if the use of the land by then was contrary to the Tamil Nadu Town and Country Planning Act, 1971. In case any action is to be taken against the petitioner and other buyers, appropriate notices may be issued and all proceedings shall be carried out in accordance with law.

7. This Writ Petition stands allowed with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Director,
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Chennai - 600 002.

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3. The District Collector,
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4. The Block Development Officer,
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5. The President,
Vadamugam Vellore Panchayat,
Perundurai Taluk,
Erode District.

+1 cc to M/s.S.Ramesh, Advocate Sr.No. 10501

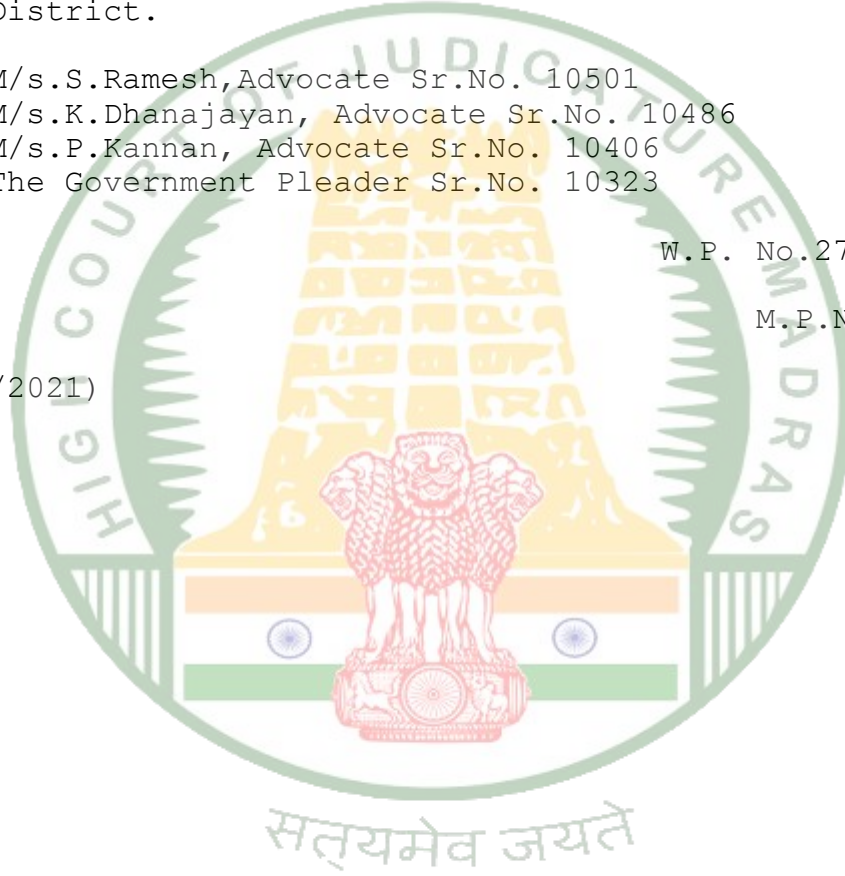
+1 cc to M/s.K.Dhanajayan, Advocate Sr.No. 10486

+1 cc to M/s.P.Kannan, Advocate Sr.No. 10406

+1 cc to The Government Pleader Sr.No. 10323

W.P. No.27495 of 2015
and
M.P.No.1 of 2015

GPL (CO)
RMP (12/03/2021)



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