



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.06.2021

Coram

The Honourable Mr. Justice D. KRISHNAKUMAR

W.P.No.12642 of 2021

M/s. Rema Rainbow Valley Residents &
Plot Owners Association (RRVRPOA)
Rep. by its President Nachiket Shankar,
703, Prestige Exotica,
#3, Cunningham Crescent Road,
Bangalore - 560 052.

...Petitioner

Versus

1. The Director,
Directorate of Town & Country Planning,
Appavoa Nagar, Weavers Colony,
Dharmapuri - 636 701.
2. The Member Secretary,
Hosur New town Development Agency,
35/A, First Floor, Nethaji Road,
Hosur, Krishnagiri - 635 109.
3. M/s. Rema Country Holdings Limited,
No.79, MM Road, II Floor,
Fraser Town, Bangalore - 560 005.

...Respondents

This Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the second respondent to consider and pass suitable orders on the representation dated 19.06.2020 and 10.09.2020 submitted by the petitioner Association.

For Petitioner : Mr.M.Vijayan

For Respondent - 1 : Mr.M.R.Gokul Krishnan,
Government Advocate

O R D E R

(The case has been heard through video conference)

The relief sought for in the present writ petition is to direct the second respondent to consider and pass suitable orders on the representation dated 19.06.2020 and 10.09.2020 submitted by the petitioner Association.



2. The case of the petitioner is that the petitioner Association was registered under the Societies Registration Act 27 of 1975 and its Registration Number is 77 of 2003. The petitioner Association is in-charge of the welfare of the plot holders of Rema Rainbow Valley (hereinafter referred to as 'RRV') and it represents the common interest of plot owners. The third respondent floated the layout of RRV and formed an association viz., Association of Plot Owners of Rema Rainbow Valley (hereinafter referred to as 'APOORRV'). The members of the petitioner Association purchased the vacant plot from the third respondent and there was a dispute among the petitioner and the third respondent. Hence, the third respondent has filed a suit in O.S.No.142 of 2003 before the District Munsif Court, Hosur for declaration as against the petitioner Association. By judgment and decree dated 29.10.2010, the learned District Munsif, Hosur disposed of the suit O.S.No.142 of 2003 by holding that the parties have settled the issue amicably vide Agreement dated 18.04.2008.

2.1. The third respondent has submitted an Application before the first respondent in the month of June, 2019 for regularization of unapproved layout and plot under the Tamil Nadu Regularisation of Unapproved Layout and Plots Rules, 2017. The said Application was numbered as File No.1489 of 2019 and thereafter, renumbered as File No.492 of 2020. Subsequently, the said Application was transferred to the office of the second respondent in the month of July, 2020 and now, the same is pending on the file of the second respondent.

2.2. The essence of the Agreement dated 18.04.2008 is that the third respondent will not have any claim in the common areas/amenities such as club house, boat house, health club building and shopping complex and such other structures that may be erected from time to time. So, the third respondent unanimously without the knowledge and consent of the petitioner Association has decided to gift the 10% of Open Space Reserve (OSR) from common amenities/areas enlisted in Item I & II of Annexure to the Agreement dated 18.04.2008, to the Local Authority through a proper deed of conveyance.

2.3. The land proposed to be gifted to the Local Authority towards OSR is in the custody and maintenance of the petitioner Association since 2003 and every plot holder have paid for the common amenities/common areas as a part of their sale consideration. Hence, the petitioner Association made a representation dated 19.06.2020 to the first respondent requesting them not to accept the 10% of land towards OSR gifted out of the lands in possession and enjoyment of its Association. Also, the petitioner Association sent the said representation



along with a covering letter dated 10.09.2020 to the second respondent, however, the same was not considered. Hence, the aggrieved petitioner has filed the present writ petition before this Court.

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3. The learned counsel for the petitioner would submit that the third respondent has no right with regard to the property held by the petitioner Association since the petitioner Association has been in possession of the common amenities/areas/green areas since 2003 and has also been holding the same as a custodian on behalf of all the plot holders of RRV. He would further submit that the first respondent has to consider the petitioner's representation before taking any final decision with regard to the Application submitted by the third respondent for regularisation of unapproved layout and plot.

4. The learned Government Advocate appearing for the first respondent would submit that the petitioner's representation dated 19.06.2020 would be duly considered by the second respondent under the provisions of Tamil Nadu Regularisation of Unapproved Layout and Plots Rules, 2017.

5. Heard the learned counsel on both sides.

6. Considering the submissions made by the learned counsel for the petitioner, this Court without going into the merits of the case, issues the following directions:

(i) The petitioner Association is directed to submit a copy of its representation dated 19.06.2020 along with a copy of this order, before the second respondent.

(ii) On receipt of such representation, the second respondent is directed to afford an opportunity of personal hearing to both the petitioner and the third respondent.

(iii) After affording such opportunity, the second respondent is directed to consider the petitioner's representation under the provisions of Tamil Nadu Regularisation of Unapproved Layout and Plots Rules, 2017 and thereafter, pass appropriate orders with regard to the Application No.492 of 2020 filed by the third respondent, on merits and in accordance with law, as expeditiously as possible.

7. This Writ Petition is disposed of with the above directions. No costs.

s/d-
Assistant Registrar(CS-IX)

True Copy

Sub-Assistant Registrar



To

1. The Director,
Directorate of Town & Country Planning,
Appavoa Nagar, Weavers Colony,
Dharmapuri - 636 701.

2. The Member Secretary,
Hosur New town Development Agency,
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3. M/s.Rema Country Holdings Limited,
No.79, MM Road, II Floor,
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+1 CC to Mr.R. Gunalan, Advocate sr 27833.

+1 CC to The Government Pleader sr 27872.

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SS(CO)
SP(19/07/2021)