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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

W.P.No.15543 of 2020
and
WMP.No.19402 of 2020

D.Aroon Kumar

...Petitioner

-Vs-

1. The District Collector
Tirupur District
2. The Director of Town and
Country Planning,
NO.807 Anna Salai
Chennai-02.
3. The Deputy Director of Town
and Country Planning
Tiruppur Zone,
Tiruppur.
4. The Block Development Officer/
Special Officer, (Village Panchayat)
Ganapathipalayam Panchayat
Palladam Taluk,
Tiruppur.
5. The President
Ganapathipalayam (grade I),
Village Panchayat
Palladam Taluk,
Tiruppur-641 605.
6. A.Senthilkumar
7. Mr.S.Sudhan
8. Mr.Manivenkatesh
9. Mrs.Manjula Suresh



10.M/S.Sakthi Garden Kudieruppor
Nala Sangam
Kungumampalayam
Rep.by its President
M.K.Arumugam
S/o.Krishnasamy Gounder
1/159(7) SAKTHI GARDEN
Kungumampalayam,
Ganapathipalayam.

11.A.Balamani

12.A.nagarajan

13.K.P.Sasikumar

14.S.Deepa

15.A.Marimuthu

16.M.Maheswari

17.R.Ragupathy

18.R.Vani

19.L.Selvameenambigai

20.S.Gandhijothi Sivasami

..Respondents

[R-10 to R-20 impleaded vide order dt.13.09.2021
made in WMP.No.3569/2021 in WP.No.15543/2020]

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned letter/order of the 4th respondent dated 31.10.2019 and to quash the same and consequently direct the 4th respondent to measure the common area allotted to the public in the "Shakti Garden Layout", to remove any encroachments made in the Open space reserved for public purposes in the approved layout dated 12.02.2007 and to restore the same as per the approved plan for the usage of the general public and further to take legal action against the 6th respondent for encroaching and selling the land in the Open space reserved (OSR) for public purpose int he approved layout.



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For Petitioner : Mr.C.Jayachithra
For Respondents : Mr.U.Baranidharan
Government Advocate
for R 1 to R 5
Mr.M.Vijayakumar

Mr.Gupta Ravi
for R 6

Mr.G.Ethirajulu
For RR10 to 20

ORDER

This writ petition has been filed challenging the impugned letter issued by the 4th respondent dated 31.10.2019 and for a consequential direction to the 4th respondent to properly measure the common area and to remove any encroachments made in the Open Space Reserved for public purposes as per the approval granted on 12.02.2007 and to restore the property as per the approved plan.

2.When the matter was taken up for admission on 04.11.2020, this court passed the following order:

Mr.KParameshwaran, learned Government Advocate, takes notice on behalf of respondents 1 to 3. Mr.Iniyan, learned Government Advocate, takes notice on behalf of respondents 4 and 5. Notice to the respondents 6 to 9 returnable by 02.12.2020. Private is also permitted.

2. It is seen from records that when the plan approval was granted by the second respondent by proceedings dated 12.02.2007, the 6th respondent was specifically directed to execute a gift deed with respect to 10% OSR and also to earmark the common areas and amenities. The entire confusion has happened since the 6th respondent has violated the planning approval and has merrily sold the plots including those that were earmarked for common amenities and also those that fell within the 10% OSR. This has resulted in lot of hardships to those persons who have purchased the plots from the 6th respondent. Ultimately, through the impugned letter dated 31.10.2019, the 4th respondent has directed the Sub Registrar, Palladam not to register any documents pertaining to the entire layout. This has effectively interfered with the rights of those



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persons who have purchased the plots from the 6th respondent, from dealing with their own property.

3. In view of the above, the 4th respondent is directed to immediately conduct a survey with the help of his officials and identify the 10% OSR that was supposed to be gifted to the panchayat and also identify the areas that were earmarked as common amenities. The 4th respondent shall

further direct the 6th respondent to immediately execute the gift deed in accordance with the plan approval dated 12.02.2007. If the gift deed is not executed, the 4th respondent is directed to take criminal action against the 6th respondent for having cheated the village panchayat as well as various persons who have purchased the plots by believing the 6th respondent.

4. A report shall be filed before this Court by the 4th respondent after complying with the above directions.

Post this case under the caption ''for orders'' on 02.12.2020.

3. Pursuant to the above order, there are lot of developments that had taken place. It is brought to the notice of this court that the 6th, 8th and 9th respondents have executed gift deeds on 26.02.2021, 26.08.2021, 27.07.2021, respectively, in favour of the 5th respondent through the developer and thereby gifted the OSR and places earmarked for public purposes.

4. In view of the above development, the main grievance that was expressed by the petitioner has been redressed. The Association has also filed an impleading petition coming up with certain grievance to the effect that it is a gated community and hence some normalcy must be restored to enable the residents to live peacefully in the locality without getting into any further problems.

5. In view of the fact that the OSR and places earmarked for public purposes had already been gifted in favour of the 5th respondent and the same has to be maintained only by the 5th respondent, there is nothing further to be decided in the present writ petition. In view of this development, the impugned letter issued by the 4th respondent will no longer be in force and the documents submitted by the residents will not be entertained by the registration department since no one can deal with the properties which have already been gifted in favour of the 5th



respondent and it is also brought to the notice of this court that the impugned letter of the 4th respondent was subsequently modified on 31.12.2019. This court expects that normalcy will be restored in the gated community and no further problems will be created.

6.This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

KP

To

1. The District Collector
Tirupur District
2. The Director of Town and Country Planning,
NO.807 Anna Salai, Chennai-02.
3. The Deputy Director of Town and Country Planning
Tiruppur Zone, Tiruppur.
4. The Block Development Officer/
Special Officer, (Village Panchayat)
Ganapathipalayam Panchayat
Palladam Taluk, Tiruppur.
5. The President
Ganapathipalayam (grade I),
Village Panchayat, Palladam Taluk, Tiruppur-641 605.

+1cc to M/s.G.Ethirajulu, Advocate, S.R.No.46749
+1cc to the Government Pleader, S.R.No.46504
+1cc to M/s.Gupta and Ravi, Advocate, S.R.No.46422
+1cc to M/s.C.Jayachithra, Advocate, S.R.No.46227

W.P.No.15543 of 2020

PMK(CO)
RGA(11/10/2021)