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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
AND
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.P.NO.24745 OF 2021
&
W.M.P.NOS.26026 & 26027 OF 2021

R.Narayanasamy

... Petitioner

Versus

1. The Commissioner,
Director of Town and Country Planning,
Building Division,
No.807, Anna Salai,
Chennai - 600 002.
2. The Commissioner,
Coimbatore Corporation,
Big Bazaar Street,
Coimbatore - 641 001.
3. The Member Secretary,
Local Planning Authority,
Corporation Shopping Complex,
Dr.Nanjappa Road,
Coimbatore - 641 018.
4. The Assistant Commissioner,
East Zone Coimbatore Corporation,
Trichy Road, Singanallur,
Coimbatore - 641 005.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus to call for the record in relation to notice dated 02.11.2021 issued by the second respondent under Section 258 (1) and 441 of the Coimbatore Corporation Act, 1981 and quash the same and consequently direct the fourth respondent to remove the board



put in the petitioner's land situated in S.No.240, Vilankuruchi Village, Coimbatore District as per the regularization made by the second and third respondent in Ma.Va./(KO.Uthi.Ku) Regularization No.204/2018, in Plot Nos.2,3,6,9,10,11,12 and 12A an extent of 1 Acre 90 cents in DTCP/L/0029558/2017, dated 14.03.2018.

For petitioner : Mr.AR.L.Sundaresan
Senior Counsel
For Mr.P.Tamilavel

For respondents : Mr.L.S.M.Hasan Fizal
Additional Government Pleader
For R1 & R3

Mr.K.Magesh
Standing Counsel
For R2 & R4

ORDER

(Order of the Court was made by K.KALYANASUNDARAM., J.)

This Writ Petition has been filed for issuance of Writ of Certiorarified Mandamus to call for the records relating to the notice dated 02.11.2021 issued by the second respondent and quash the same and consequently direct the fourth respondent to remove the board put up by the fourth respondent in the property of the petitioner.

2. Learned Senior Counsel appearing for the petitioner Mr.AR.L.Sundaresan would urge that though in the year 1990, a lay out technical approval was granted in respect of the land of the petitioner measuring an extent of 3.50 acres, but the final approval was not obtained from the Local Authority. According to the learned Senior Counsel, the approval granted in the year 1990 was abandoned. After the introduction of Regularization of Unapproved Layouts and Plots Rules, 2017, the petitioner approached the concerned authorities for approval of the land as well as the building in respect of 1.90 acres. Accordingly, approval was granted by the third respondent on 14.03.2018. While so, the second respondent without even issuing a show cause notice has passed the impugned order, treating the petitioner as an encroacher and directed him to remove the superstructure constructed therein. It is the submission of the learned Senior Counsel that the impugned order came to be passed without affording opportunity to the petitioner.



3. Mr.L.S.M.Hasan Fizal, learned Additional Government Pleader appearing for the respondents 1 & 3, and Mr.K.Magesh, learned Standing Counsel appearing for the respondents 2 & 4 would state that the petitioner is the owner of the property in S.No.240 of Vilankurichi Village, Coimbatore and he sold plots, citing the approval granted by the Authorities in the year 1990. While granting approval, the area in dispute has been shown as a park. Hence, there is no illegality in the order passed by the second respondent.

4. We have heard the rival submissions and perused the materials available on record.

5. This impugned order is challenged mainly contending that the second respondent has passed the order in violation of the principles of natural justice. Although, it is represented by the learned counsel for the respondents that the regularization approval granted in the year 2018 has been cancelled and the second respondent has an authority to pass this order, however considering the fact that the petitioner was not put on notice and no opportunity was afforded to the petitioner before the impugned order came to be passed, we are of the considered view that on that score, it is liable to be set aside.

6. In such view of the matter, the Writ Petition is allowed. The order impugned is set aside and the matter is remanded back. The second respondent shall pass an order afresh, after affording ample opportunity to the petitioner. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
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Chennai - 600 002.



2. The Commissioner,
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Trichy Road, Singanallur,
Coimbatore - 641 005.

+1cc to Mr.K.Magesh, Advocate, S.R.No.59334
+1cc to Mr.P.Tamilavel, Advocate, S.R.No.59595
+1cc to the Government Pleader, S.R.No.59992

W.P.NO.24745 OF 2021 &
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VG-II(CO)
PBS/06/12/2021