



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.07.2021

CORAM :

THE HONOURABLE MRS.JUSTICE J. NISHA BANU

W.P. (MD) .No.12997 of 2021

and W.M.P. (MD) .No.10070 of 2021

WEB COPY

L.K.S.M.Jawahar Beevi

... Petitioner

Vs.

1.The District Collector/Member Secretary,
Tirunelveli Local Planning Authority,
Tirunelveli District.

2.The Commissioner,
Tirunelveli City Municipal Corporation,
Tirunelveli District.

3.M/s.John Build Well India Pvt. Limited.,
Rep. through its Director,
M.Mariababu Ramesh,
D.No.7/20, Kariya Nayanar Street,
Palayamkottai,
Tirunelveli District.

... Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st and 2nd Respondents herein to consider the petitioner Representation/objection, dated 03.02.2021 and pass appropriate order not to grant the plan approval/layout submitted by the 3rd Respondent herein for doing commercial activities in respect of land in old Revenue S.No.78/1A, now T.S.No.7/1, T.S.Ward A.R.Block - 4, Melapalayam Village, Palayamkottai Taluk, Tirunelveli District, based upon the petitioner objections and pass appropriate orders with in a time stipulated by this Court.

For Petitioner	: Mr.D.Nallathambi
For Respondents	: Mr.M.Lingadurai for R1 Government Advocate

ORDER

This writ petition has been filed for the issuance of Writ of Mandamus, directing the 1st and 2nd Respondents herein to consider the petitioner's Representation/objection, dated 03.02.2021 and pass appropriate order not to grant plan approval/layout submitted by the 3rd Respondent herein for doing commercial activities in respect of land in old Revenue S.No.78/1A, now T.S.No.7/1, T.S.Ward A.R.Block - 4, Melapalayam Village, Palayamkottai Taluk, Tirunelveli District, based upon the petitioner's objections.



2.The case of the petitioner is that the the old Ayan Punja land in Survey No.78/1-A, measuring 5 acres 62 cents was purchased by his father Late.Mohamed Meeran Mohideen Tharaganar through a registered sale deed, dated 10.03.1946. After his death, the petitioner and his brothers and sisters inherited the above said property and they are in possession and enjoyment of the same. A suit in O.S.No.25 of 1972, on the file of the Additional Sub Court, Tirunelveli, has been filed by the legal heirs of Late L.K.S.Mohamed Meeran Mohideen Tharaganar, for partition of his properties. In that suit, a preliminary decree has been passed and an application for passing final decree had been filed in I.A.No.248 of 1975 in O.S.No.25 of 1972 and final decree was also passed. As per the final decree, the above said land in S.No.78/1A, in Melapalayam Village, which is shown as Item No.111 of the suit second schedule was allotted to the petitioner. But, on account of the patent and obvious errors in the report of the Advocate Commissioner and in the final decree, the same was subsequently set-aside and a new Advocate Commissioner namely Mr.Balaji Palanivel was appointed in I.A.No.248 of 1975 in O.S.No.25 of 1972 on the file of Additional Sub Court, Tirunelveli, and the proceedings of the commissioner is pending.

3.The petitioner would further state that pending final decree proceedings one Mohideen Fatima Beevi purchased the above said land in S.F.No.78/1A from one Abdul Rahman and his brother Abdul Kadhar, who have no title or interest in respect of the above property. Subsequently, one Natarajan and BalaKrishnan have purchased the above said land from Mohideen Fatima Beevi. Therefore, the petitioner sent a notice, dated 28.02.2019, to the legal heirs of Mr.Natarajan informing about his title to the property and stated that the alienations made by the third parties in his favour is not valid. Now, the 3rd Respondent Company claims that it has purchased the above said land from the sons of Mr.Natarajan in the year 2019. According to the petitioner, when the predecessor's to the above property themselves have no right or title, the 3rd respondent, who is stated to be the subsequent purchaser, cannot have valid title.

4.According to the petitioner, either the original owner L.K.S.Mohamed Meeran Mohideen Tharaganar or the petitioner or any other legal heirs of L.K.S.Mohamed Meeran Mohideen Tharaganar, have alienated or encumbered the land in S.No.78/1A, Melapalayam. The above said land is one of the items of lands belonging to the petitioner's family. However, the 3rd Respondent Company is doing business promoting layout in a grand manner on the strength of invalid document and it has also submitted a layout to the respondents 1 & 2, for approval. Thus, the petitioner submitted objection, dated 03.02.2021, but till date, the respondents 1 and 2 have not conducted any enquiry in this regard. Hence, this writ petition.

5.The learned counsel for the petitioner would state that it is the petitioner's representation/objection, dated



03.02.2021, is directed to be considered by the respondents 1 and 2, within a time frame, for which, the learned Government Advocate appearing for the respondents 1 and 2 has agreed.

6. Heard the learned counsel for the petitioner as well as the respondents 1 and 2. In view of the order going to be passed, notice to the 3rd respondent is not necessary.

7. Considering the facts and circumstances of the case and without adverting to the merits of the case, the respondents 1 and 2 are directed to consider the representation / objection, of the petitioner, dated 03.02.2021, before granting approval to the Plan Approval Layout submitted by the third respondent, in accordance with law, by giving opportunities to all concerned, within a period of eight weeks from the date of receipt of a copy of this order.

8. The writ petition is disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The District Collector/Member Secretary,
Tirunelveli Local Planning Authority,
Tirunelveli District.

2. The Commissioner,
Tirunelveli City Municipal Corporation,
Tirunelveli District.

+1 CC to M/s.D.NALLATHAMBI, Advocate (SR-24828[F] dated
30/07/2021)

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29.07.2021

RS (23.08.2021) 3P 4C