



IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 28.11.2022

CORAM

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.31626 of 2012

K.R.Sivaraj

... petitioner

-Vs-

1. The District Collector,
Coimbatore.

2. The Sub Registrar,
Sulur.

3. Union of India,
Represented by the Defence Estate Office,
Ministry of Defence,
Madras Circle, 306, Anna Salai,
Teynampet, Chennai-18.
(R3 Suo Moto impleaded as per
order dated 29/01/2020 in
W.P.No.31626/2012 by AQJ)

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, for issuance of Writs of Certiorari to call for the entire records relating to the impugned order dated 03.09.2012 passed by the first respondent in Na.Ka.No.43915/2008-1 and quash the same.



For petitioner : Mr. A.Ramesh

For M/s.N.Anand

For Respondents : Mr. U.Bharanidharan, AGP For R1

Mr.E.Vijay Anand, AGP For R2

M/s.K.S.Jayaganesan,

Standing counsel For R3

ORDER

This petition has been filed seeking to quash the impugned order dated 03.09.2012 passed by the first respondent.

2. It is the case of the petitioner that the petitioner is the absolute owner of the land measuring an extent of 22.00 acres situated in S.F.No.365 part, 366, 367, 371, 372 and 373/3 of Kadambadi Village, Coimbatore District and the petitioner was purchased the above said lands from one Chenniappan and the same was divided into 436 plots under the name and style of "Sri Balaji Park". It is further case of the petitioner that he has sold nearly 400 plots to various persons. In the year 2012, when the petitioner had approached the second respondent for registration of further two plots, the second respondent has refused to register the said sale deeds by serving a copy of the impugned order dated 03.09.2012 passed by the first respondent herein wherein is stated that the second respondent shall not accept any document for registration without no



objection certificate from the Tahsildar in respect of survey numbers which was mentioned in the impugned order including the petitioners land and a proposal dated 03.12.2008 for acquiring 76.36.0 hectares of land for expansion of Sular Air Port run way is pending before the Chief Secretary of the Tamil Nadu Government. Challenging the said order dated 03.09.2012 passed by the first respondent, the petitioner has filed the present writ petition seeking the above mentioned prayer.

3. Learned counsel for the petitioner submitted that the first respondent has no jurisdiction to issue the impugned order dated 03.09.2012 on the ground that a proposal dated 13.12.2008 for acquiring the land is pending with the Government for the past 4 years. Due to the impugned order passed, the second respondent has not accepted the sale deed for registration. The Sub Registrar has to act as per the procedure contemplated under the Registration Act. Therefore, the learned counsel prays to quash the impugned order passed by the first respondent and allow this petition.

4. Learned counsel for the Standing Counsel submitted that the said lands are required for expansion of defense airport, for which, there was a



communication between the District Collector and the Ministry of Defense, who is the third respondent herein. However, this Court may grant liberty to the third respondent to send a further communication for acquiring the land for the purpose of defense Airport in the Sulur Airport.

5. Learned Additional Government Pleader appearing on behalf of the first respondent submitted that the first respondent has filed a counter in this case and submitted that the Wing Commander, Wing Air Force, Sulur has requested for the acquisition of 76.36.0 hectares of dry lands in S.F.Nos.357/2A etc., of Kadambadi Village, Sulur Taluk, Coimbatore District for the extension of Parallel Taxi Track at Air Force Station, Sulur. Proposals for the Administrative sanction was submitted to the Principal Secretary and Commissioner of Land Administration, Chennai vide order dated 03.12.2008 and the same was recommended to the Principal Secretary and Secretary to Government, Public (Military) Department and the same is pending. Therefore, the requisition body requested to stop the sale/registration of the plots in the proposed lands and considering the request of the requisition body, a letter was addressed the Sub Registrar, Sulur to register the documents for transactions in the suit properties after obtaining no objection certificate from the Tahsildar, Sulur. As against the



said letter, the petitioner has filed the present writ petition.

WEB COPY

6. The learned Addl. Government Pleader further submitted that the proposed acquisition of lands in various survey numbers in three villages viz., Kadampadi, Kalangal and Appanayakkan patty has been identified for the purpose of expansion of Air Force Station in Suler, Coimbatore District and it is in the national security point of view, the location for light compact air craft station have been located at Suler. In view of these background, the Wing Commander of Air force, Suler has sent a letter dated 30.07.2012 in Kadampadi Village covered by the proposed land acquisition.

7. The learned Addl. Government Pleader further submitted that the proposal for acquiring lands have been reached finality and the same has been sent to the Government for issuance of 4(1) Notification. Out of the lands proposed in S.Nos.365,366 and 367 of Kadambadi Village lies within 100 Mtrs. Of defense area wherein constructions are prohibited. Therefore, no one can be permitted to put up any constructions within the prohibited limits.

8. The learned Additional Government Pleader further submitted that



though the petitioner has stated that he has purchased 22 acres of land in Kadambadi Village and divided into 436 plots and he has not show whether he has obtained valid and proper approval for conversion of the said lands from the competent authority. In the absence of production of approval from the competent authority, the petitioner cannot form a layout and the same is prohibited under 47A of the Tamil Nadu Town and Country Planning Act. Therefore, it is the duty of the developer to seek approval from the competent authority before conversion of the land. Further, in the national security point of view, the location for light compact air craft station is very much important and also it is incumbent upon any one is purchasing the property, which are identified for the purpose of expansion of Air force Station and hence, the petitioner has to necessarily obtain the NOC from the competent authority. In view of the above reasons, the learned counsel prays to dismiss the writ petition.

9. Heard both sides and perused the materials available on record.

10. The facts of the case are not in dispute. Admittedly, the petitioner is the owner of the land measuring an extent of 22 Acres situated in SF. No.365 part, 366, 367, 371, 372 and 373/3 of Kadambadi Village, Sulur Taluk,



Coimbatore District and the same was purchased in the year 2011. The land was divided into plots by the petitioner and the some plots were sold to various persons. Such being the position, when the petitioner approached the second respondent for registering some plots, he refused to register the same and issued the present impugned order. However, the apprehension of the petitioner is that the first respondent sent a communication to the second respondent restraining him for receiving the document for registration in respect of the above said survey numbers which was mentioned in the impugned order. According to the respondents, the proposal for land acquisition is still pending before the third respondent.

11. As rightly submitted by the learned counsel for the petitioner, the Sub Registrar is governed by the Registration Act, except that provision, no other authority including the District Collector have no power to pass any restraint order against the Sub Registrar for entertaining the document. In the absence of any restraint order from the competent Court or from any authority the second respondent have no power to refuse the registration process as per the Registration Act and this Court is in agreement with the case pleaded by the petitioner and has no hesitation to grant the relief sought for by him.



WEB COPY

12. For the aforesaid reasons, the impugned communication issued by the first respondent is liable to be quashed and the same is hereby quashed. Accordingly, the writ petition is allowed. However, liberty is granted to the respondents 1 & 3 to proceed with the matter after following due process of law. No costs.

28.11.2022

rli

Index : Yes/No

Internet:Yes/No

Speaking Order : Yes/No

To

1. The District Collector,
Coimbatore.

2. The Sub Registrar,
Sulur.

3. Union of India,
Represented by the Defence Estate Office,
Ministry of Defence,
Madras Circle, 306, Anna Salai,
Teynampet, Chennai-18.



WEB COPY



M.DHANDAPANI, J.

rli

W.P.No.31626 of 2012

28.11.2022