



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2022

CORAM:

THE HONOURABLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE
AND
THE HONOURABLE MRS.JUSTICE N.MALA

W.A.NO.1424 OF 2022
AND
C.M.P.NO.9213 OF 2022

The Commissioner,
Hosur Corporation,
Hosur,
Krishnagiri District,
Pin:635 109.

... Appellant

Vs.

1. R.Manjunath
2. S.Ramakrishna
3. N.Ramesh
4. Captain M.Surya Prakash
(All are represented by their Power Agent
P.Narayanan)
5. The Inspector General of Registration,
Santhome High Road,
Chennai.
6. The District Collector,
Krishnagiri District,
Krishnagiri-635 001.
7. Member Secretary,
Hosur New Town Development Authority (HNTDA)
Hosur
Krishnagiri District
Pin:635 109.
8. The Sub-Registrar,
Kelamangalam,
Krishnagiri District,
Pin:635 110.



9. The Superintendent of Police,
Krishnagiri,
Krishnagiri District
Pin:635 001.

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10. The Inspector of Police,
Mathigiri, Hosur,
Krishnagiri District
Pin:635 110.

11. The Sub-Registrar,
Hosur, Krishnagiri District
Pin:635 109.

... Respondents

Writ Appeal is filed under Clause 15 of the Letter Patent against the order dated 06.04.2022 passed by the learned Single Judge in W.P.No.1819 of 2022 on the file of this Court.

Prayer in W.P.No.1819 of 2022:-

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records made in impugned notice dated 26.07.2021 in Na.Ka.No.2460/2021/F1 passed by the 4th respondent and quash the same consequently direct the 5th respondent to remove and strike of any restriction to entertain registration with regard to the property earmarked as School property in the DDTCP approved layout bearing approval No.96/1980 measuring 11,600 sq.ft. comprised in S.Nos.714, 715/1, 723/A and 723/B new S.Nos.723/B6A 723/1A1A1A1A and 723/B1A1 earlier called as Tamil Nadu Sericulture employees Nagar now called as Deepam Nagar situated at Mathigiri Village, Hosur, Krishnagiri District.

For Appellant	:	Mr.N.Subbarayalu
For Respondents	:	Mr.P.Muthukumar, State Govt. Pleader assisted by Mr.K.M.D.Muhilan, Govt. Advocate for R5, R6 and R8 to R11

JUDGMENT

(The Judgment of the Court was delivered by
The Honourable Chief Justice)

The Writ appeal has been filed by the Hosur Corporation to challenge the order dated 06.04.2022 passed by the learned Single Judge, disposing of the Writ Petition filed by the respondents 1 to 4 herein, with certain directions.



2. Learned counsel for the writ appellant/Hosur Corporation submitted that in ignorance of the fact that the land in question could not have been transferred by the allottee, the subsequent purchase has been endorsed by the learned Single Judge. The order aforesaid is in ignorance of the fact that the management of the land vests with the appellant/Corporation and therefore, the sale of the land was not permissible. The land in question is otherwise to be used for "school", as it was allotted for the said purpose. In the light of the aforesaid and also the Judgment of the Apex Court in the case of PT.Chet Ram Vashist Vs. Municipal Corporation of Delhi, reported in 1995 (1) SCC 47, the impugned order of the learned Single Judge deserves to be set aside.

3. We have considered the submissions made by the learned counsel for the parties and perused the records.

4. It is not in dispute that the land in question is earmarked for School and was allotted to the seller who sold the land by executing sale deed by Document No.2462 of 1997. The name of the purchaser was mutated in the Revenue Records and separate Patta bearing Nos.709, 6865 and 6959 were issued. The Municipal Corporation did not challenge those Pattas. It is also a fact that when the non-appellants entered into MoU and General Power of Attorney, the fifth respondent in the Writ Petition was informed by the appellant not to entertain any kind of encumbrances over the school property, because it is a public land and an order for it was passed on 26.07.2021. The learned Single Judge had taken note of the aforesaid that the land in question is earmarked for primary school and can be used for that purpose only.

5. Reference to Section 2(2) of the Tamil Nadu Town and Country Planning Act, 1971, has been given to show that the said earmarked area could have been sold. It was allotted with a condition to use the land for the purpose for which it is meant, i.e. to develop a school. The document in the shape of MoU and Power of Attorney were not entertained at the instance of appellant, ignoring the fact that it is going to be used for the school. In any case, the learned Single Judge made it clear that the land in question has been earmarked for the primary school and therefore, it cannot be used for any other purpose, but for the purpose for which it has been allotted, and thereby in paragraph 8, the following directions were given by the learned Single Judge:

"8. The learned counsel for the petitioner fairly submitted that the said area was purchased only for the usage of school. Considering the facts and



circumstances of the case and the undertaking given by the petitioners, this Court passes the following orders:

i. The petitioners are directed to present the document along with the undertaking affidavit stating that the property will be utilised only for the school purpose;

ii. After receipt of such affidavit, the 5th respondent is directed to entertain the document and pass appropriate orders in terms of the order passed by the third respondent dated 31.08.2018 on merits and in accordance with law within a period of twelve weeks from the date of receipt of filing of the affidavit."

6. It could not be clarified as to how the appellant is affected by direction aforesaid.

7. The learned counsel for the appellant is not able to show any condition in the allotment order that the allottee would not be entitled to sell the land or to execute MoU and Power of Attorney for that. In the absence of any condition to that effect, we are unable to accept the application of the judgment of the Apex Court in the case supra. It is more so, when the learned Single Judge has not permitted use of the land for any other purpose other than the purpose for which it has been allotted. The non-appellants have been directed to file an affidavit for use of the land for primary school.

8. In view of the above, we do not find any ground to cause interference in the impugned order passed by the learned Single Judge. Accordingly, the Writ Appeal is dismissed. There shall be no order as to costs. Consequently, C.M.P. is closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

dsn/cs

To

1. The Inspector General of Registration,
Santhome High Road,
Chennai.



2. The District Collector,
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8. The Commissioner,
Hosur Corporation,
Hosur,
Krishnagiri District 635 109.

+1cc to Mr.N.Subbarayalu, Advocate, S.R.No.39213

+1cc to the Government Pleader, S.R.No.39816

W.A.No.1424 of 2022

SMI (CO)
RLP (05/07/2022)