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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2022

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THE HONOURABLE MR.JUSTICE T.RAJA

AND

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.NO.14099 OF 2019 AND WMP.NO.14158 OF 2019

Harini Arcade Housing Welfare Association
rep. by its Secretary,
Pattabirama Guptha,
2/265 A-I, Harini Arcade,
Vadavalli Post, Coimbatore-641 041.

... Petitioner

vs

- 1.The Director,
Town and Country Planning Department,
No.807, Anna Salai,
Chengalvarayan Towers, Chennai-600 002.
- 2.The District Collector,
Coimbatore District at Coimbatore.
- 3.The Member-Secretary,
Town and Country Planning,
Coimbatore.
- 4.The Block Development Officer/Commissioner,
Periyannayakkanpalayam Town Panchayat,
Periyannayakkanpalayam.
- 5.Keerthana
- 6.S.Shockalingam
- 7.The Post Master General,
Anna Salai, Chennai-2.
- 8.The Regional Postmaster,
Coimbatore Division,
Coimbatore.

... Respondents



(R5 and R6 impleaded vide order dated 19.03.2021 made in WMP.No.4359/2021 in W.P.No.14099/2019 and R7 and R8 impleaded suo motu vide order dated 05.07.2021)

WEB COPY: Prayer:

Petition filed under Article 226 of the Constitution of India to issue a writ of Mandamus, directing the respondents 1 to 4 to consider the representation dated 28.02.2019/14.03.2019 seeking removal of the unauthorized, illegal and deviated construction in violation of the planning permission in LPR (CPN) No.25/87 in Plot Nos.11, 121 and 122 of Layout in S.F.No.658/1,2 and 4C, 659/2, 660 and 662/1, 2 Part, 3 Part of Somayampalayam Village, Coimbatore on merits and as per law within a time stipulated by this Court.

For Petitioner	: Mr.L.Chandrakumar
For Respondents 1 to 3	: Mr.K.V.Sajeevkumar, Spl. Govt. Pleader
For 4 th respondent	: Mr. Karthik Jaganathan
For 5 th respondent	: Mr.M.K.Hidayathullah for Mr.P.Suresh Babu
For 6 th respondent	: Mr.V.Arunagiri

ORDER

[Order of this Court was delivered by T.RAJA, J.]

This Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the respondents 1 to 4 to consider the representation dated 28.02.2019/14.03.2019 seeking removal of the unauthorized, illegal and deviated construction in violation of the planning permission in LPR (CPN) No.25/87 in Plot Nos.11, 121 and 122 of Layout in S.F.No.658/1,2 and 4C, 659/2,660 and 662/1, 2 Part, 3 Part of Somayampalayam Village, Coimbatore on merits and as per law within a time stipulated by this Court.

2. Learned Counsel appearing for the petitioner would submit that the petitioner is a Registered Welfare Association bearing Registration No.184/2013, formed to help the needs of its members, who are the owners and residents of Harini Arcade. Since by proceedings No.25/87 approval came to be accorded for division of 190 housing plots of Layout Known as 'Harini Arcade' in S.F.No.658/1, 2 and 4C, 659/2, 660 and 662/1, 2 Part, 3 Part



of Somayampalayam Village, Coimbatore, vide order in Na.Ka.No.9026/06.Co.Pa.Ni.Ma.4 dated 29.1.1987 as per Town and Country Planning Act, 1971, the prevailing authority imposed certain guidelines and directions apart from instructions to be strictly adhered to. But the builder/promoter in order to illegally enrich himself had chosen to violate not only the conditions but also the Planning Permission obtained. So far as Plot No.11 is concerned, two independent buildings are constructed by sub-dividing the site without getting the approval from the Director of Town and Country Planning and so far as Plot Nos.121 and 122 are concerned, both the plots are merged and a single building is under construction which is meant for commercial usage of Kalyana Mandapam whereas the conditions laid down by the Director of Town and Country Planning show that sites are to be used for residential purposes only. Therefore, when there are serious violations, the petitioner filed W.P.No.7207/2017 seeking to consider his representation by the competent authority with regard to the infirmities and irregularities pointed out in the said writ petition. The said Writ Petition was disposed of directing the competent authority to consider the representation of the petitioner within a specified time. However after filing the Contempt Petition No.292/2018, the said representation was taken into account and the 3rd respondent has passed a proceedings dated 05.06.2019 stating that the violations were found against which actions were initiated. Finally, the Contempt Petition was closed on 26.10.2018. But the Plot No.11 has been divided into two and Plot Nos.121, 122 have combined together for the purpose of construction of commercial activities.

3. It is, at this stage, learned Counsel appearing for the 5th respondent would submit that Plot No.11 is only a residential house and with the proper approval plan, it has been constructed and there is no deviation.

4. In reply, learned Special Government Pleader appearing for the respondents 1 to 3 would state that insofar as Plot No.11 is concerned, there was a minor deviation in respect of the side set back which is nothing to do with the prayer in the present Writ Petition.

5. Though it was submitted by the learned Counsel for the petitioner that the Plot Owners of Plot Nos.121 and 122 have been raising construction for Kalyanamandapam/Kalaiararamam without obtaining any planning permission from the competent authority, the learned Counsel for the 6th respondent producing a plan showing the construction of the proposed plots would submit that the planning permission has been granted.



6. But the learned Special Government Pleader for the respondents 1 to 3 would submit that the planning permission is given only for residential purpose not for putting up any commercial activities, namely, Kalyanamandapam/Kalaiarangam.

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7. At this stage, the fact remains that according to the petitioner, constructions are going on for Kalyanamandapam in Plot Nos.121 and 122, but the same was denied by the 6th respondent. Therefore, considering the facts and circumstances of the matter, the 2nd respondent herein, namely, the District Collector, Coimbatore, is directed to find out whether the 6th respondent has obtained planning permission from the Director of Town and Country Planning for constructing a Kalyanamandapam in Plot Nos.121 and 122, based on the representations of the petitioner dated 28.02.2019/14.03.2019 and if there is no planning permission, action shall be taken against the 6th respondent. It is also made clear that if there is any planning permission and the conditions of the same were violated, then also, action shall also be taken against the 6th respondent in accordance with law.

8. With the above directions, the writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Director,
Town and Country Planning Department,
No.807, Anna Salai,
Chengalvarayan Towers, Chennai-600 002.
2. The District Collector,
Coimbatore District at Coimbatore.
3. The Member-Secretary,
Town and Country Planning,
Coimbatore.
4. The Block Development Officer/Commissioner,
Periyannayakkanpalayam Town Panchayat,
Periyannayakkanpalayam.



5. The Post Master General,
Anna Salai, Chennai-2.

6. The Regional Postmaster,
Coimbatore Division,
Coimbatore.

+1cc to Mr.L.Chandrakumar, Advocate, S.R.No.15142

+1cc to Mr.P.Suresh Babu, Advocate, S.R.No.15393

W.P.No.14099 of 2019

AJB (CO)
PM/23/03/2022