



WP.No.21976 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

WP.No.21976 of 2010
and M.P.Nos.1 & 2 of 2010

K.Venkatesh

.. Petitioner

Versus

1.The District Collector
Coimbatore

2.The Member Secretary
Local Town Planning Authority
Coimbatore – 12

3.The Commissioner
Coimbatore Corporation
Coimbatore

4.The Tahsildar
Coimbatore South Taluk
Coimbatore

5.G.Ravichandran

.. Respondents

Prayer:- Writ Petition filed under the Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the second respondent's approved layout plan bearing approval No. 24/2008 in file No.4204/2007/1 dated 19.03.2008 and quash the same.



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WP.No.21976 of 2010

For Petitioner : Mr.T.S.Baskaran

For Respondents : Mr.K.M.D.Muhilan for R1, 2 & 4
Additional Government Pleader
Mr.N.Umapathi for R3
R5 - No appearance

ORDER

This Writ Petition has been filed challenging the second respondent's approved layout plan bearing approval No. 24/2008 in file No.4204/2007/1 dated 19.03.2008 and quash the same.

2. The petitioner is the owner of the agricultural wetland comprised in Survey No. 333/3 measuring to an extent of 2 acre 31 cents situated at Kumarapalayam Village, Coimbatore District. He has acquired the title for the said lands vide family partition deed dated 24.07.2022. The tank namely Selvambathi tank is the source of irrigation to the petitioner's and adjacent land owners and the water flows through the Selvambathy Kalvai throughout the year except during the period in which failure of monsoon. Since, the said channel was not properly maintained by the Public Works Department, he sent a representation to the Assistant Executive Engineer on 19.02.2007 for fixing the boundaries of the channel in Survey



WP.No.21976 of 2010

Nos.334/2 and 334/3 which was not considered. While so, without considering the representation of the petitioner, the Local Town Planning Authority, Coimbatore / the second respondent herein had approved the layout of housing sites in Survey Nos.334/1A submitted by the adjacent land owner / the fifth respondent herein vide the impugned order.

3. According to the petitioner, there must be 15 metres gap between the irrigation channel and the buildings. However, the layout has been approved violating the Tamil Nadu District Municipality Buildings Rules, 1972. Hence, challenging the said approval, this writ petition has been filed.

4. During the last hearing, this Court directed the first respondent to survey and identify whether approved layout falls within the subject water channel. After survey, a sketch has been filed before this Court by the respondents indicating that the approved layout is not on the water channel. However, it is only abutting the water channel. The sketch is taken on record.



WP.No.21976 of 2010

WEB COPY

5. The learned counsel for the petitioner would submit that in any layout, the building plan would be approved leaving 15 metres from the bank having water course, which has not been taken into consideration by the respondent while approving the impugned layout. Hence, seeks to quash the impugned order.

6. Heard both sides and perused the materials placed on record.

7. The main grievance of the petitioner is that there was an encroachment on the water course. Now, after survey, a sketch has been filed by the respondent, indicating that there is no encroachment on the water course. However, the approved layout plan is just abutting the water channel and no building permission whatsoever is granted till now. Therefore, this Court directs the authorities that while granting such building permission, keep in mind, the restriction for granting of approval as contemplated under Rule 27 of Tamil Nadu Combined Development and Building Rules, 2019 which would read as follows:

27. Requirement for site approval.— (1) Location of Building.— Every person, who construct, reconstruct, or alters or add a building shall whenever the site is within 15 meters of



WP.No.21976 of 2010

WEB COPY

any tank, reservoir, watercourse, river, fresh water channel or well, carryout such measure as may be necessary or as the executive authority may direct, for the purpose of preventing any contamination of or any risk of the drainage of building passing into, such tank, reservoir, water-course, river, fresh water channel or well such other rules in force. (2) Reconstitution Deed.— If a development is proposed in more than one plot or site proposing amalgamation or reconstitution of the individual sites into one site, then Reconstitution Deed in the format and manner prescribed by the executive authority shall be furnished by the applicant.

Therefore, the authorities shall ensure that the building plan is granted leaving 15 meters between the watercourse and the building.

8. With the above directions, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed. According to the learned counsel for the fifth respondent, the fifth respondent has died and there is no instructions to bring the legal heirs on record. Such statement is also recorded.

22.02.2023

Index : Yes/No
Neutral Citation : Yes/No
Speaking Order : Yes/No
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WEB COPY



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N. SATHISH KUMAR, J.

dhk

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