



W.P.No.10564 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.10564 of 2023
and
W.M.P.No.10496 of 2023

S.Ponraj

...Petitioner

-Vs-

1. The State of Tamil Nadu,
Rep. by Secretary to Government,
Revenue Department,
Fort St. George, Chennai-600 009.
2. The Director,
Directorate of Survey and Settlement,
Central Survey Office, Survey House,
PWD Estate, Chepauk,
Chennai- 600 005.
3. The Commissioner /
Director of Town and Country Planning,
2, 3 and 4 Floors, E & C Market Road,
CMDA Campus, Koyembedu,
Chennai- 600 107.
4. The Commissioner,
Commisionerate of Land Administration,
2nd Floor, Ezhilagam,
Chepauk, Chennai- 600 005.



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5. The District Collector,
Collectorate, Coimbatore- 641 018.
 6. The Commissioner,
Coimbatore Corporation,
Big Bazaar Street,
Coimbatore- 641 001.
 7. The Town and Country Planning Officer,
Coimbatore Corporation,
Big Bazaar Street,
Coimbatore- 641 001.
 8. The Joint Director / Member Secretary (Incharge),
Coimbatore Town and Country Planning Office,
Dr.Nanjappa Road,
Coimbatore-641 018.
 9. The Revenue Divisional Officer,
Coimbatore South,
State Bank Road,
Coimbatore-641 018.
 10. The Special Tahsildar (South),
Town Survey Scheme, Coimbatore.
 11. B.Murali Narasiman
 12. B.Kanagalakshmi
 13. Balamanigandan
 14. M.Vasanth
 15. H.Lavanya
- ...Respondents



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Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, calling for the entire records pertaining to the proceedings of the 6th Respondent dated 12.08.2022 in Na.Ka. No.11316 / 2017H.1(ma) and quash the same consequently direct the 6th respondent to conduct fresh enquiry by calling for records pertaining to the land measuring 40 Feet East - West Road in TS No.2023 which led from Savithiri Nagar to Sundakamuthur Main Road and North - South 30 feet wide in TS. No.2022, of Vasavi Garden Komarapalayam Village, Coimbatore District from the 2nd respondent and after affording reasonable opportunity to the petitioner.

For Petitioner : Mr.R.Selvakumar

For Respondents : Mr.K.M.D.Muhilan, Govt.Advocate

ORDER

The proceeding dated 12.08.2022, impugned in the present writ petition is a report submitted by the Commissioner, Coimbatore Corporation, to the Director, Town and Country Planning. It is not a final order but it is a report sent by the Commissioner, Coimbatore Corporation, to the Director, Town and Country Planning, to pass final orders.



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2. Therefore, the impugned order would not provide any cause for the petitioner to file the present writ petition. Admittedly, the writ petitioner is a third party to the report and his lands are not involved in the proceedings which is impugned in the present writ petition. The learned counsel for the petitioner states that the right of pathway as per the original layout has been denied to the petitioner since he is owning a land in that layout. Since the petitioner is deprived of his right to utilise the road which has been earmarked in the layout, he has chosen to file the present writ petition.

3. Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, reads as follows:

*“**Release of land.**- If within three years from the date of the publication of the notice in the Tamil Nadu Government Gazette under Section 26 or Section 27-*

(a) no declaration as provided in Sub-section (2) of Section 37 is published in respect of any land reserved, allotted or designated for any purpose specified in a regional plan, master plan, detailed development plan or new town development plan covered by such notice; or

(b) such land is not acquired by agreement, such land shall



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be deemed to be released from such reservation, allotment or designation.”

4.The learned Government Advocate brought to the notice of this Court that the notification under Section 26 and 27 was issued in the year 1994 and 3 years period lapsed long back. Thereafter, no notification was issued under the Town and Counter Planning Act and therefore, a report was submitted by the Commissioner, Coimbatore Corporation, to the Director, Town and Country Planning, to take an appropriate decision and pass final orders.

5.If at all, the petitioner is having any grievance in respect of any changes in the layout or grant of building plan permission in favour of any other person, he is at liberty to submit his objections before the corporation or before the Director, Town and Country Planning, as the case may be and in the event of receiving any such objections or otherwise, the authorities competent shall consider the same on merits, in accordance with the law and based on the reports, if any, submitted by the competent authorities.

6.In respect of any dispute regarding title of ownership, the



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parties have to approach the competent civil forum. The competent authorities under the Town and Country Planning, or the Commissioner, Coimbatore Corporation, is not entitled to decide the title or ownership in respect of the subject property.

7. With these directions, the writ petition stands **disposed of**. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(sha)
Index : Yes
Speaking Order
Neutral Citation : Yes

05.04.2023
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To

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S.M.SUBRAMANIAM. J.,

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