



W.A.Nos.3607, 3640 & 3642 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2023

CORAM :

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

AND

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.A.Nos.3607, 3640 & 3642 of 2019

1. R.Gnaneswaran
2. G.Pravin Raja .. Appellants in W.A.No.3607 of 2019

1. S.Vijayalakshmi
2. B.Lakshmi Gayathri
3. V.R.Ratika .. Appellants in W.A.No.3640 of 2019

1. B.Ramanathan
2. R.Padmapriya .. Appellants in W.A.No.3642 of 2019

v.

1. The Commissioner
Coimbatore City Municipal
Corporation
Coimbatore 641 001

2. The Member Secretary
Local Planning Authority
Sivananda Colony
Coimbatore 641 012 .. Respondents in all the Writ Appeals



W.A.Nos.3607, 3640 & 3642 of 2019

Writ Appeals filed under Clause 15 of the Letters Patent, against the common order dated 23.11.2018 made in W.P.Nos.29866, 29859 & 29865 of 2011 respectively.

For Appellants :: Mr.T.Ranganathan in all WA's

For Respondents :: Mr.N.Velmurugan for R1 in all WA's
No appearance for R2

COMMON JUDGMENT

(Judgment of the Court was made by D.KRISHNAKUMAR,J.)

The appellants have filed the instant intra-Court appeals aggrieved by the common order dated 23.11.2018 passed in Writ Petition Nos.29866, 29859 & 29865 of 2011, respectively. The said writ petitions were filed by the appellants claiming that they had purchased a portion of the land measuring an extent of 2262 sq.ft., situate in New T.S.No.3/540 of Komarapalayam Village, Coimbatore District during the year 2009 by way of registered document No.3976 of 2009. On the strength of the same, they submitted applications to the first respondent requesting for building plan approval. But the same came to be rejected vide orders dated 26.08.2011, 26.08.2011 & 12.09.2011 passed by the first respondent, that were unsuccessfully challenged in the writ petitions.



2. The learned counsel appearing for the appellants submitted that the land measuring to an extent of 37 cents is a private property since 1947 and never included in any layout either as a part or as a whole. It is further submitted that when the unapproved layout in respect of the plots in T.S.No.3/540 was regularized by the Director of Town and Country Planning in the year 1980 itself, the question of public purpose open space does not arise at all, as the 37 cents of land in New T.S.No.3/540 (part) was not included in the said layout. When the said parcel of land has not been earmarked as Open Space Reservation, in terms of the Government Orders, the said parcel of land can be converted for residential purpose by the developer. It is also submitted that the appellants are also paying vacant land tax for the said land to the first respondent till date. When the Government Order is very clear, the appellants are entitled for the building plan approval and therefore, the orders passed by the first respondent as well as the order passed by the writ Court are liable to be set aside.

3. The learned counsel appearing for the first respondent, relying upon the counter affidavit filed before the writ Court, submitted that the



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land in question has been earmarked for public purpose, for the reason that the layout has been approved by the competent authority. Therefore, the request of the appellants has been rejected by the first respondent, as they cannot claim exclusive right over the land earmarked for public purpose.

4. The counter affidavit filed by the Member Secretary, Coimbatore Local Planning Authority, the second respondent herein before the writ Court also shows that the records maintained by the Department do not reveal that in the year 1980, the parcel of land in question was regulated by DTCP and therefore the claim of the appellants that the land in question was not included as a part in the layout regulated by DTCP, could not be ascertained.

5. Having heard the submissions made by the learned counsels appearing for the parties, we are surprised with the stand taken in the counter affidavit filed by the first respondent before the writ Court that the layout has been approved, in the absence of any material being produced either before the writ Court or before us evidencing the approval granted by



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the competent authority. Now the admitted fact, as borne out from the records, is that the layout in respect of the land in question has neither been approved by the competent authority nor has been regularized by the authority concerned. Moreover, when it is the claim of the appellants themselves that they have sought for building plan approval for construction of residential building in an unapproved layout, we are not inclined to interfere with the orders passed by the first respondent as well as the order passed by the writ Court, as it is for the appellants to workout their remedy before the authorities concerned in the manner known to law. In fine, the writ appeals stand dismissed. Consequently, C.M.P.Nos.23165, 23274, 23278 & 23279 of 2019 are also dismissed. There shall be no order as to costs.

(D.K.K.,J.) (P.B.B,J.)
22.08.2023

Index : yes/no
Neutral citation : yes/no

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To
WEB COPY

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