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WP No. 5141 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2023

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Petition No. 5141 of 2016

Welfare Association of Residents
Kurichi Housing Unit, Phase II
Represented by its President
M. Chandrasekaran
B-394, Kurichi Housing Unit, Phase II
Industrial Estate Post
Coimbatore – 641 021

.. Petitioner

Versus

1. The District Collector
Coimbatore District
Coimbatore-641 018
2. The Tahsildar
Coimbatore South
Madukkarai Market,
Coimbatore District - 641 105.
3. The Commissioner
Coimbatore Corporation
Town Hall,
Coimbatore-641 001.
4. The Director of Town and Country Planning
807, Anna Salai
Chennai - 600 002



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5. The Secretary,
Kurichi Pudu Nagar Development Authority,
Dr. Nanchappa Road,
Corporation Commercial Plaza.
Coimbatore - 641 018.

6. South Western Engineering India Limited
(formerly known as Coimbatore Private
Industrial Estate Limited)
represented by Executive Director
A. James Chandra Mohan
6/16/13, Krishnarayapuram Road, Ganapathy,
Coimbatore-641 006.

.. Respondents

*(R6 impleaded vide order of this
Court dated 26.04.2016 in W.M.P.No.12535 of 2016
in W.P.No.5141 of 2016)*

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF MANDAMUS directing the respondents 1 to 4 herein to initiate action to remove the encroachment in the 100 Feet Road located in the northern side of the Kurichi Housing Unit, Phase II and restore the 100 Feet Road and all the areas earmarked for the roads and reserved sites in approved layout plan of LPI/DTP/2/71 at Kurichi Housing Unit, Phase II, SIDCO Industrial Estate, Coimbatore-641 021.

For Petitioner	:	Mr. G. Nagarajan
For RR1, 2, 4 & 5	:	Mr. A. Selvendran
		Special Government Pleader
For R3	:	Mr. Najeeb Usman
For R6	:	Mr. M.S. Krishnan, Senior Advocate for M/s.Sarvabhavman Associates

ORDER

[Order of the Court was made by R.MAHADEVAN, J.]

The petitioner association has come forward with this writ petition praying to issue a Writ of Mandamus directing the respondents 1 to 4 herein to initiate action to remove the encroachment made in the 100 Feet Road located



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in the northern side of the Kurichi Housing Unit, Phase II and restore the 100 Feet Road and all the areas earmarked for the roads and reserved sites in approved layout plan of LPI/DTP/2/71 at Kurichi Housing Unit, Phase II, SIDCO Industrial Estate, Coimbatore-641 021.

2. The petitioner is a registered association formed with an object to protect the interest and welfare of the members, who are the allottees of Kurichi Housing Unit, Phase – II. The housing project was approved by the Government of Tamil Nadu in the year 1971 and on the Northern side of the housing plots, a 100 feet road was shown as boundary in the approved layout. The grievance of the petitioner is that the adjacent industrial units have encroached about 40 feet to 60 feet in the 100 feet road, which was specifically earmarked for various amenities to be enjoyed by the house owners in the project. The petitioner Association therefore made representations to the second respondent to take action against the encroachers, but, no action was taken. Thereafter, the petitioner filed W.P. No. 25320 of 2015 before this Court seeking a direction to the authorities to initiate action for removal of encroachment. However, the petitioner withdrawn the said WP No. 25320 of 2015 on 17.08.2015 with liberty to file another writ petition.



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3. According to the petitioner Association, even after withdrawal of WP No. 25320 of 2015, inspite of various representations sent to the respondents, no action has been taken, therefore, the petitioner has filed the present writ petition for the relief mentioned supra.

4. When the matter was taken up for consideration, the learned counsel appearing for the third respondent drew the attention of this court to the status report dated 14.02.2023 filed by the third respondent, wherein, in paragraph No.5, it has been stated as follows:

“5.Therefore, inspection was carried out on 30.01.2023 and it is found that the roads which are the subject matter of the writ petition were allowed to be maintained by the Coimbatore Private Industrial Estate by G.O. Ms. No.719, Industries (SICI) dated 13.07.1990 and all along been under the control of the Kurichi New Town Development Authority, the fifth respondent herein. The said roads have not been entrusted or handed over to this Corporation, so far. Moreover, this respondent understands that the Member Secretary (Incharge) of the Kurichi New Town Development Authority was directed by the Directorate of Town and Country Planning, Chennai to take action against the unauthorised construction under Section 56 and 57 of the Tamil Nadu Town and Country Planning Act by proceedings, dated 06.04.2015 in respect of unauthorised construction made on the road and in fact Kurichi New Town Development Authority had issued notice in R.O.C. No.622/2014 dated 12.06.2015 calling upon the occupiers to vacate the premises which were constructed upon the roads, which are the subject of the present petition. I understand that thereafter The Kurichi New Town Development Authority has not proceeded after issuing notice. The Kurichi New Town Development Authority has also not delegated the power to



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remove the encroachments, which is the subject matter of the present writ petition, to this Corporation. As such action for removal of the encroachments is to be taken only by the Kurichi New Town Development Authorities, the fifth respondent herein...."

5. Thus, it is evident from the status report that the fifth respondent is the competent authority to consider the claim of the petitioner and after issuance of notice to the encroachers in the subject road, nothing has progressed. Therefore, this Court, without going into the merits of the claim of the petitioner, directs the fifth respondent to conduct an enquiry and pass appropriate orders, on merits and in accordance with law, after issuing notice and affording an opportunity of hearing to all the parties concerned, within a period of eight weeks from the date of receipt of a copy of this order.

6. With the aforesaid directions, this writ petition stands disposed of.

No costs.

[R.M.D., J] [M.S.Q., J]
07.03.2023

nsd/rsh

Index: Yes / No

Speaking Order / Non-speaking Order

To

1. The District Collector
Coimbatore District
Coimbatore-641 018

<https://www.mhc.tn.gov.in/judis>



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2. The Tahsildar
Coimbatore South
Madukkarai Market,
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