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W.P.No.29771 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

Writ Petition No.29771 of 2022
and W.M.P.No.29164 of 2022

1. C.B.Murali

2. B.M.Naveen

.. Petitioners

Vs.

1. The Director
Directorate of Town and Country Planning
2nd, 3rd & 4th floor
C & E Market Road
Koyambedu, Chennai-600 107.

2.The Joint Director
Directorate of Town and Country Planning
Coimbatore Region
243, Corporation Commercial Complex
Dr.Nanjappa Road
Coimbatore – 641 048.

3.The Commissioner
Coimbatore Corporation.

4.The Executive Engineer (Planning)
Town Planning
Coimbatore Corporation – 641 001.



W.P.No.29771 of 2022

5.The Assistant Executive Engineer (Planning)
East Zone, Coimbatore Corporation.

6.Rajendran
Managing Director
M/s.Raj Shruthi Construction Pvt. Ltd.
B48, Srivatsa Enclave
Mettupalayam Road
G.N.Mill, Coimbatore – 641 029.

7.Shruthi Enclave Welfare Association
Represented by its President
Dhanalakshmipuram
Singanallur Post
Coimbatore District.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus calling for the records on the respondents relating to the orders of (i) the 4th respondent dated 07.10.2022 bearing No. S.R.No.03/2022/H1E and (ii) the 3rd respondent dated 11.10.2022 bearing Na.Ka.No.7195/2022/H1/E, quash the same and consequentially, directing the 2nd respondent to consider the petitioners application for planning permission for putting up the residential building submitted in application Reference No.1481 and online Application No.202200602021481 without insisting for registered document regarding vesting of approach road in favour of the 3rd respondent.

For Petitioners : Mr.T.Sai Krishnan

For RR1 & 2 : Mrs.R.L.Karthika
Government Advocate



WEB COPY



W.P.No.29771 of 2022

For RR3 to 5 : Mr.N.Velmurugan
Standing Counsel

For RR6 & 7 : No appearance

ORDER

(Order of the Court was delivered by V.M.VELUMANI,J.)

The petitioners have come out with the present writ petition challenging the orders of the 4th respondent dated 07.10.2022 and 3rd respondent dated 11.10.2022 and for a direction to the 2nd respondent to consider the petitioners' application for planning permission for putting up the residential building without insisting for registered document regarding vesting of approach road in favour of the 3rd respondent.

2. Heard the learned counsel appearing for the petitioners as well as the learned Government Advocate appearing for the respondents 1 & 2 and the learned Standing Counsel appearing for the respondents 3 to 5 and perused the entire materials on record.

3. Though notice has been served on the 6th respondent and his name is printed in the cause list, there is no representation for him either



W.P.No.29771 of 2022

in person or through counsel.

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4. Though the 7th respondent has entered appearance through counsel, there is no representation for him, when the matter is taken up for hearing.

5. According to the petitioners, they are the owners of the properties situate in S.F.No.551/2B, Upplipalayam Village measuring 21.21 cents & 19.21 cents respectively. The members of the 7th respondent Association have purchased plots from the vendors of the petitioners. Planning permission was granted for construction of 137 houses under group housing scheme and construction was made. There is an agricultural vaikal in between the petitioners' land and the road and the petitioners have obtained special permission from PWD, Bhavani Sagar Division for putting up a small bridge over the channel at their own costs. The petitioners have submitted an application through Online to the 2nd respondent on 09.03.2022 seeking planning permission for putting up residential building comprising of ground + First floor by mentioning the approach road connecting to the major road being Coimbatore to Trichy road and started construction. While so, on the complaint made by third parties, the 5th respondent issued stop work



W.P.No.29771 of 2022

notice dated 07.09.2022 to the petitioners stating that the construction was made without prior permission. The petitioners sent a reply to the 5th respondent on 12.09.2022. Without considering the explanation given by the petitioners, the 4th respondent issued impugned notice dated 07.10.2022 directing the petitioners to demolish the building put up by them. Therefore, the petitioners have submitted an application to the 3rd respondent on 08.10.2022. Without considering the said application, the 3rd respondent issued lock and seal notice on 11.10.2022. Thereafter, the petitioners came to know that the planning permission granted for group housing scheme to the 7th respondent Association has been cancelled by the planning authorities for certain alleged deviations with regard to layout road areas. Therefore, the petitioners have come out with the present Writ Petition for the above stated relief.

6. Mrs. R. L. Karthika, learned Government Advocate appearing for the respondents 1 & 2 produced the proceedings of the District Town Planning Office, Coimbatore, dated 05.01.2023 and submitted that planning permission has been granted to the petitioners with certain conditions.

7. Considering the submissions of the learned counsel appearing



W.P.No.29771 of 2022

for the petitioners as well as the learned Government Advocate appearing for the respondents 1 & 2 and the learned Standing Counsel appearing for the respondents 3 to 5, the petitioners are directed to file an appeal under Section 452 of Coimbatore City Municipal Corporation Act before the Standing Committee, within a period of two weeks from the date of receipt of a copy of this order. On such filing, the Standing Committee is directed to dispose of the appeal filed by the petitioners taking into consideration the proceedings of the District Town Planning Office, Coimbatore, dated 05.01.2023, within a period of eight weeks from the date of receipt of the appeal. Till orders are passed in the appeal, the respondents 1 and 2 are restrained from taking any coercive steps against the petitioners, in view of the impugned orders of the respondents 4 & 3 dated 07.10.2022 & 11.10.2022 respectively.

8. With the above directions, the Writ Petition is disposed of. No costs. Connected WMP is closed.

(V.M.V., J) (V.L.N., J)
27.02.2023

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No



W.P.No.29771 of 2022

WEB COPY

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WEB COPY



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**V.M.VELUMANI,J.
and
V.LAKSHMINARAYANAN,J.**

Kj

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