



WEB COPY



W.P.No.907 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.P.No.907 of 2020
and
W.M.P.No.1092 of 2019

Royal Exotic,
Rep. by its Managing Partner,
P.Ravi Chandran.
Old No 68, New No 65, Race
Course Coimbatore- 641018.

... Petitioner

Vs.

1. The Commissioner,
Coimbatore Corporation,
O/o. The Coimbatore Corporation,
Coimbatore-641001

2. The Assistant Commissioner,
North Zone,
Coimbatore Corporation,
Coimbatore- 641001.

3. The Commissioner of Police,
O/o. The Commissioner of Police,
Coimbatore- 641018.

4. The Assistant Commissioner of Police,
Anti-land Grabbing Cell,



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Coimbatore- 641018.

5. The Member Secretary,
Coimbatore Local Planning Authority,
Coimbatore- 641012.

6. Thiru P. Seralathen

7. Thiru S. Boopathy

8. Thiru P. Elangovan

9. Smt E. Priyadharashini

10. Thiru E.Ramkumar

11. M/S.Shree Pappu Restaurant,
Rep. by its Proprietor,
88, Sathy Road Ganapathy,
Coimbatore- 641006.

... Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, directing the Respondents No.1 to 5 to take Immediate legal action against Respondent No.11 for the illegal encroachment of 2.14 Meter x 25.70 Meter in the North-South Access Road/ Drive Way to Royal Exotic Apartment in Old S.F.No.20 Pt, 126 Pt, New T.S.No.7 Part & 21 Part, Ganapathy Village and direct the removal of the encroachment.

For Petitioner : Mr.Dr.S.R.Sundaram

For Respondents : Mr.Najeeb Usman Khan,
Standing Counsel (for R1 & R2);



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Mr.A.Selvendran,
Special Government Pleader (for R3 to R5);

Mr.K.S.Karthik Raja (for R6 to R10);

Mr.N.Nithianandam for
Mr.A.Saran Raj (for R11).

ORDER

(Order of the Court was delivered by S.M.Subramaniam J.)

The writ of mandamus has been instituted to direct the respondents 1 to 5 to take action against 11th respondent for the illegal encroachment of 2.14 Meter x 25.70 Meter in the North-South Access Road/ Drive Way to Royal Exotic Apartment in Old S.F.No.20 Pt, 126 Pt, New T.S.No.7 Part & 21 Part, Ganapathy Village and direct the removal of the encroachment.

2. It is not in dispute that a lay out in the subject property has been approved by the competent authority under the provisions of the Town and Country Planning Act. Pursuant to the lay out approval, a Gift Deed was executed in favour of the Commissioner of Coimbatore Corporation, in Document No.205 of 2014. Once the lay out has been approved and the Gift Deed is executed in favour of the competent authority, the land absolutely vest with the Coimbatore Corporation and therefore, the



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Authority competent of the Coimbatore Corporation is empowered to remove all the encroachments in the public streets earmarked for public use.

3. The learned Standing Counsel, appearing on behalf of the respondent, Coimbatore Corporation, would submit that as per the Gift Deed, encroachments are already identified. The Gift Deed, executed in favour of the Corporation, is to be acted upon for the purpose of maintaining the public road and to provide infrastructural facilities for the benefit of the people of that locality.

4. Learned counsel for the 11th respondent would submit that a Sale Agreement was entered into between the erstwhile owner and the 11th respondent. However, the learned counsel for the petitioner disputed the said fact by stating that an unregistered Lease Deed was executed between the petitioner and the 11th respondent and the Deed expired. Thus, the 11th respondent has no right over the property.

5. May that as it be. This Court has to consider that the Gift Deed dated 17.01.2014 which would reveal that the subject property in question had been Gifted in favour of the Commissioner, Coimbatore Municipal



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Corporation and the said land has already been identified by the competent authorities of the Corporation. Thus, the respondents 1 and 2 are directed to remove all the encroachments and demolish the unauthorised constructions, if any, in the subject land and take possession of the land as per the lay out and restore the original position of the streets as per the approved layout plan and provide infrastructural facilities for the benefit of the people of the locality. The said exercise is directed to be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.

6. Accordingly, the writ petition stands disposed off. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(S.M.S.J.,)

(K.R.S.J.,)

26.02.2024

Index : Yes/No

Internet: Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

(sha)



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S.M.SUBRAMANIAM, J.

and

K.RAJASEKAR, J.

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