



W.P.No.16259 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2024

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.16259 of 2023

G.S.Senthilkumar

Vs

.. Petitioner

1. The Commissioner,
Coimbatore Corporation,
Big Bazaar Street, Coimbatore - 641 001.
2. The Commissioner,
Director of Town and Country Planning
Building Division, No.807, Annasalai,
Chennai - 600 002.
3. The Deputy Director,
Director of Town and Country Planning,
Corporation Shopping Complex,
Dr.Nanjappa Road, Coimbatore - 641 018.
4. The Member secretary,
Local Planning Authority,
Sivananda Colony, Tatabad,
Coimbatore.
5. The Assistant Executive Officer, (Planning).
West Zone, Coimbatore Corporation,
Coimbatore.



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6. The Executive Officer,
Vadavalli Town Panchayat,
Vadavalli, Coimbatore.

7. The Assistant Commissioner,
West Zone, Coimbatore Corporation,
Coimbatore.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari calling for the record pertaining to order in Na.Ka.No.33278/2022/H1/W, dated 27/04/2023 issued by the 7th respondent and quash the same as illegal.

For the Petitioner : Mr.Mukund
Senior Counsel
for Mr.P.Tamilavel

For the Respondents : Mr.Ferdinand
for respondents 1, 5 and 7

: Mr.A.Edwin Prabakar
State Government Pleader
for respondents 2 to 4 and 6

ORDER

(Order of the court was made by the Hon'ble Chief Justice)

Heard Mr.Mukund, learned Senior Counsel appearing on behalf of Mr.P.Tamilavel, learned counsel for the petitioner; Mr.Ferdinand, learned counsel for respondents 1, 5 and 7; and Mr.A.Edwin Prabakar, learned State Government Pleader for respondents 2 to 4



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and 6.
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2. The notice issued by the Corporation is assailed in the present writ petition.

3. The contention appears to be that the land in the layout is reserved for public purpose. The petitioner has carried out construction on the said site. It is the contention of the petitioner that the land is not handed over to the Corporation. No registered document is executed in favour of the Corporation. The Corporation is not the owner of the property.

4. At the same time, it is accepted that construction permission has not been obtained.

5. The open space and/or the spaces reserved for public purpose in a layout may not entirely vest with the Planning Authority unless a registered instrument is executed. However, at the same time, the site reserved for public purpose also cannot be



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used for any other purpose than for what it has been reserved.

6. Learned Senior Counsel for the petitioner, at this stage, submits that the petitioner would approach the Corporation for regularisation. The Corporation may be directed to consider the said application/representation of the petitioner.

7. No gift deed has been placed on record suggesting that the original owner has gifted the subject writ land in favour of the Corporation.

8. Learned counsel for the Corporation submits that the Corporation be given liberty to acquire the subject writ land.

9. The power of eminent domain can be exercised for public purpose. It is for the Corporation or the Government to take steps in that regard, as may be permissible under law.

10. The petitioner may approach the Corporation with the



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necessary application. The Corporation may decide the application filed by the petitioner on its own merits and in accordance with law and policy.

The writ petition is disposed of accordingly. There shall be no order as to costs. Consequently, W.M.P.No.15653 of 2023 is closed.

(S.V.G., CJ.)

(D.B.C., J.)

28.03.2024

Index : Yes/No
Neutral Citation : Yes/No
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THE HON'BLE CHIEF JUSTICE
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D.BHARATHA CHAKRAVARTHY,J.

(sasi)

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