



WEB COPY



W.P.No.28027 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2024

CORAM :

THE HON'BLE MR. D.KRISHNAKUMAR, ACTING CHIEF JUSTICE

and

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

W.P.No.28027 of 2024 and

WMP No.30581 of 2024

R.Venkatachalam

... Petitioner

Vs.

1. The District Collector,
Coimbatore District,
Coimbatore 603 202.

2. The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore.

3. The Director of Town and Country Planning,
4th floor, Chengalvarayan Building,
807, Anna Salai, Chennai 600 002.

4. The Member Secretary,
Local Planning Authority of Coimbatore,
Sivananda Colony, Tata Batch,
Coimbatore.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of Constitution of India seeking issuance of a writ of Certiorari, calling for the records relating to the impugned order dated 28.08.2024 passed by the second respondent in Na.Ka.No.5978/2013/H1 (W), to quash the same.

For Petitioner : Mr.R.Srinivasan, Senior Counsel
for Ms.S.S.Jayanthi

For Respondents : Mr.T.K.Saravanan, Government Advocate
for respondents 1 and 3
Mr.Najeebusman, Standing Counsel
for second respondent

ORDER

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

This writ petition has been filed to quash the impugned order in Na.Ka.No.5978/2013/H1 (W), dated 28.08.2024 passed by the second respondent.

2.According to the petitioner, he purchased a portion of land to an extent of 1600 sq.ft., out of 3163 sq.ft. land at VNR Nagar, S.F.No.71/1, Vadavalli Village, Coimbatore from one Periyasamy, vide sale deed dated



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15.06.1992. After obtained permission from the authorities concerned, he had constructed additional building in the said land and he is paying the property tax and water charges. All of a sudden, the second respondent has issued the impugned notice stating that the petitioner has encroached the corporation land and asked the petitioner to remove the encroachment, within 15 days. Hence this writ petition.

3. Per contra, learned counsel for the respondents submitted that the petitioner has encroached on the land reserved for public purpose. The petitioner was afforded sufficient opportunity before passing the impugned order, which itself was passed based on the earlier orders passed by this Court in W.P.No.13644 of 2024 on 15.05.2024.

4. At this juncture, Learned Standing Counsel has relied upon the order passed by this court in similar matter in W.P.No.26839 of 2024, dated 11.09.2024, which was filed by one of the land owners, namely R.Muralidharan, against the very same notice dated 28.08.2024, impugned herein. In the said writ petition, this court has passed the following order.



4. We have heard learned counsel on either side and perused the documents available on record.

5. Before advertng to the merits of the matter, it is seemly to refer to the decision of the Apex Court in the case of *Association of Vasanth Apartments' Owners v. V.Gopinath and others*, 2023 SCC OnLine SC 137, wherein the following direction is issued:

“184. ...

VI. The areas covered by the OSR cannot be diverted for any other purpose. The respondents are duty-bound to ensure that the area set apart as OSR is stringently utilised only for the purpose in the Rule/Regulation. We direct that no area meant for OSR shall be utilised as dumping yards or any other purpose other than as OSR.”

[emphasis supplied]

6. In the instant case, it is beyond any cavil that the land in question is a reserve site for public purpose, viz., for establishment of a school. The law enunciated by the Apex Court in the decision, referred supra, mandates that the land in an approved layout set apart as OSR is to be stringently utilised for the said purpose, without any deviation.

7. The petitioner had knocked the doors of this court on four occasions prior to the present writ petition raising one ground or the other against a similar action initiated by the respondents. This is fifth writ petition filed in respect of the very same land earmarked for public purpose. Such a conduct of the petitioner cannot be appreciated and we do not find any merits in the writ petition.



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8. At this juncture, learned counsel for the petitioner submitted that the petitioner may be permitted to convert the existing building into a school.

9. The said request has to be considered by the authorities concerned based on the relevant statutes and government orders applicable. It is not for this court exercising jurisdiction under Article 226 of the Constitution of India to direct conversion of the building into a school. In any event, as a last chance, we grant two weeks' time to the petitioner to make necessary representation/application to the competent authority in this regard. On receipt of the said representation/application, the authority concerned shall consider the same, on merits and in accordance with law, and pass appropriate orders within two months thereafter. If the authority does not accede to the request made by the petitioner, then the petitioner shall handover the writ subject property to the respondents without any protest and without knocking the doors of this court once again in respect of the same issue.

5. Here in this case, learned counsel for the petitioner also submitted that, the petitioner may be permitted to convert the existing building into a school.



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6. The petitioner has constructed the building in the very same property, which has been earmarked for public purpose. In such circumstances, liberty is granted to the petitioner to make a representation to the petitioner before the authorities concerned within a period of two weeks from the date of receipt of a copy of this order. On receipt of such representation, the authority concerned shall consider the same, on merits and in accordance with law, and pass appropriate orders within two months thereafter. If the authority does not accede to the request made by the petitioner, then the petitioner shall handover the writ subject property to the respondents without any protest and without knocking the doors of this court once again in respect of the same issue.

7. This writ petition is disposed of accordingly. There shall be no order as to costs. Connected WMP No.30581 of 2024 is closed.

(D.K.K., A.CJ.)

(M.J.R.J.)

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