



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2024

CORAM

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and**

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.Nos.29242 and 30697 of 2019

and

W.M.P.No.29044 and 30778 of 2019

W.P.No.29242 of 2019

Giridhara Sanjeevi

... Petitioner

Vs.

1. The Commissioner, Coimbatore Corporation,
Coimbatore.

2. Mr.G.Balasundaram

3. The Tahsildar, Coimbatore South,
Coimbatore.

... Respondents

[R3 impleaded as per order dated 14.10.2019]

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records, pertaining to the order passed by the 1st respondent in his proceedings in Roc.No.5358/2019 /H.S. Dated 14.08.2019 and quash the same.

W.P.No.30697 of 2019

V.Narayanan

... Petitioner

Vs.

1. The Commissioner, Coimbatore Corporation,
Coimbatore.



2. Mr.G.Balasundaram
3. Mr.G.Veera Raghavan

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records, pertaining to the order passed by the 1st respondent in his proceedings in Roc.No.5358/2019 /H.S. dated 14.08.2019 and quash the same.

For Petitioner : Mr.C.Sivanesan

For R1 : Mr.Najeeb Usman Khan,
Standing Counsel

For R2 : Mr.I.Abrar Md Abdullah

COMMON ORDER

(Order of the Court was made by **S.M.SUBRAMANIAM, J.**)

The notice issued under the provisions of the Coimbatore City Municipal Corporation Act, 1981 dated 14.08.2019 is sought to be quashed in the present writ proceedings.

2. The writ petitioner in W.P.No.29242 of 2019 claims to be the absolute owner of the property bearing Door No.5 (Site No.6A), Kuttralam Nagar, Kovaiputhur, Coimabatore – 641 042. The issue raised in these Writ Petitions are that layout approval has not been granted in accordance with the provisions of the Tamil Nadu Panchayats Act, 1994 and the Building Rules



framed thereunder and therefore, the actions initiated are to be continued for the purpose of removing unauthorized construction and to maintain the public children play area, play ground and public utility services etc., as per the layout plan.

3. The learned counsel for the writ petitioner in W.P.No.29242 of 2010, Mr.T.N.Rajagopalan would contend that technical approval has been granted. But the final approval, as required and in compliance with the provisions of the Tamil Nadu Panchayats Act, 1994 and the Building Rules were not obtained. Technical approval would be insufficient to deal with the housing sites in the layouts. Beyond technical approval, final approval is to be obtained for the purpose of dealing with the house sites in the layout, which is mandatory.

4. In this regard, Section 49 of the Tamil Nadu Town and Country Planning Act, 1971 provides applications for permission. If any application has been submitted under Section 49 of the Tamil Nadu Town and Country Planning Act, 1971, then such applications are to be dealt with in accordance with the procedures, as contemplated under the Act and Rules frames thereunder. Rule 3 of the Tamil Nadu Panchayats Building Rules, 1997



provides applications for approval of layout of house sites.

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5. Sub-Rule 1 to Rule 3 denotes that “*No owner or other persons shall layout a street, land, passage or pathway or sub-divide or utilize the land or any portion or portions of the same on the site or sites for building purpose until a lay-out plan has been approved by the Executive Authority who shall get prior concurrence of the Director of Town and Country Planning or his authorized Joint Director or Deputy Director of Town and Country Planning for such approval*”.

6. Sub-Rule 6 to Rule 3 stipulates that “*the owner of the land to be laid out shall not proceed to sub-divide or utilize the site or sites intended for building purposes unless he has complied with the requirements of sub-rules (1), (2), (3), (4) and (5)*”.

7. Therefore, the Act and Rules unambiguously stipulate that procedures, as contemplated are to be followed scrupulously for the purpose of dealing with housing sites in the layout. The approval must be granted finally for the purpose of dealing with house sites in the layouts. Mere technical approval would be insufficient to deal with the house sites in layouts.



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8. In the present case, the parties are unable to produce any such final approval, as granted by the competent authorities in compliance with the provisions of the Tamil Nadu Panchayats Act, 1994 and Building Rules, which was in force during the relevant point of time. The Commissioner, Coimbatore Corporation in his counter affidavit has stated that the Deputy Director, Town and Country Planning by his proceedings dated 20.05.1987, while approving the layout, had reserved the present site as “Children Play Space Area”. The total extent of the layout area is 2,025.45 sq.mts, out of which, an area to extent of 202.16 sq.mts, i.e., 10% was reserved as Children Play Space Area. Clause 18 of the order of approval specifically states that the promoter shall develop the Children Play Space Area and road portions and hand over the same to the concerned local body for its future maintenance. The effect of such reservation was that the original owner / Developer ceases to be a legal owner of that particular land and he holds the said land for the benefit of the society or public in general. Such reservation results in creating an obligation in the nature of trust and it precludes the owner from transferring or selling his interest on the said land.



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9. With reference to the counter-affidavit filed by the Commissioner, Coimbatore Corporation, we have verified the Building Rules, which would reveal that final approval of the layout is mandatory. Only after obtaining final approval, the house sites in the layouts are to be dealt with for sale or otherwise. In the present case, lapses are identified and the common public places are not handed over to the local body and on account of these lapses, the Commissioner, Coimbatore Corporation issued the impugned notice. That being so, we do not find any infirmity in respect of the notice issued by the Commissioner, Coimbatore Corporation.

10. In view of the facts and circumstances, the Commissioner, Coimbatore Corporation is directed to verify the irregularities and illegalities in the matter of approval of the subject layout and earmark the public places in the layout and proceed in accordance with law by demolishing the unauthorized constructions. Such an exercise is directed to be completed by the Commissioner, Coimbatore Corporation within a period of four months from the date of receipt of a copy of this order. The Commissioner, Coimbatore Corporation shall seek inputs, if necessary, from the Director, Town and Country Planning or the Deputy Director, Town and Country Planning, as the case may be. It is made clear that institution of a Civil Suit or



pendency of Suit in Civil Court is not a bar for initiating all appropriate actions against the illegalities in the matter of unapproved layout and to deal with encroachments and unauthorized constructions.

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11. Accordingly, these Writ Petitions stand disposed of. Consequently, the connected Miscellaneous Petitions are closed. No costs.

(S.M.S.,J.) (K.R.S.,J.)
04.03.2024

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Index : Yes
Speaking order

To

1. The Commissioner,
Coimbatore Corporation,
Coimbatore.
2. The Tahsildar,
Coimbatore South,
Coimbatore.



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S.M.SUBRAMANIAM, J.
and
K.RAJASEKAR, J.

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