



W.P.Nos.28335 of 2017, 10528 and 19252 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.28335 of 2017, 10528 and 19252 of 2020

and

W.M.P.Nos.8165 of 2019, 12785 and 23842 of 2020
and 3970 of 2021

W.P.No.28335 of 2017:-

G.S.Senthilkumar

... Petitioner

-Vs-

1. The Commissioner,
Director of Town and Country Planning,
Building Division,
No.807, Anna Salai,
Chennai-600 002.

2. The Deputy Director,
Director of Town and Country Planning,
Corporation Shopping Complex,
Dr.Nanjappa Road,
Coimbatore 641 018.

3. The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore 641 001.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to remove the compound wall and gate put up in the petitioner's property situate in S.F.Nos.217 and 218 measuring 1365 sq.mts in Gurusamy Nagar in Vadavalli



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Village, Perur Taluk, Coimbatore District.

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For Petitioner : Mr.S.Mukunth, Senior Counsel
for Mr.T.L.Thirumalaisamy
For R1 and R2 : Mr.C.Kathiravan
Special Government Pleader
For R3 : Mr.K.Magesh
Standing Counsel

W.P.No.10528 of 2020:-

G.S.Senthilkumar

... Petitioner

-Vs-

1. The Commissioner,
Director of Town and Country Planning,
Building Division,
No.807, Anna Salai,
Chennai-600 002.
2. The Deputy Director,
Director of Town and Country Planning,
Corporation Shopping Complex,
Dr.Nanjappa Road,
Coimbatore 641 018.
3. The Member Secretary,
Local Planning Authority,
Sivananda Colony,
Tatabad, Coimbatore.
4. The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore 641 001.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the fourth respondent from any construction activities in the petitioner's property situated in SF.Nos.217



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and 218 measuring 1365 square meters in Gurusamy Nagar in Vadavalli Village of Coimbatore District.

For Petitioner : Mr.S.Mukunth, Senior Counsel
for Mr.P.Tamilavel
For R1 to R3 : Mr.C.Kathiravan
Special Government Pleader
For R4 : Mr.K.Magesh
Standing Counsel

W.P.No.19252 of 2020:-

Annapoorani Siddhan

... Petitioner

-Vs-

1. The Director,
Director of Town and Country Planning,
Head Office, No.807,
Anna Salai, Chennai-600 002.
2. The Deputy Director,
Town and Country Planning,
Coimbatore Region,
Corporation Shopping Complex,
Dr.Nanjappa Rd,
Coimbatore – 641 018.
3. The Block Development Officer,
Periyanaickenpalayam Panchayath Union,
Coimbatore – 641 020.
4. The Executive Officer,
Somayampalayam Panchayath,
Kalappanaickenpalayam,
Coimbatore – 641 108.
5. The President,
Somayampalayam Panchayath,



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Kalappanaickenpalayam,
Coimbatore – 641 108.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, directing the 3rd, 4th and 5th Respondents to remove a borewell and motor room in the petitioner's property situated in SF No.296/2, measuring an extent of 3188.7 Sq.mts Community Hall site in Padmavathi Nagar, Somayampalayam Village, Coimbatore District.

For Petitioner	: Mr.S.Mukunth, Senior Counsel for Mr.P.Tamilavel
For R1 and R2	: Mr.C.Kathiravan Special Government Pleader
For R3 and R4	: Mr.M.Elumalai
For R5	: Mr.A.Sathyaraj

COMMON ORDER

W.P.No.28335 of 2017 has been filed for the issuance of a Writ of Mandamus, directing the respondents to remove the compound wall and gate put up in the petitioner's property situate in S.F.Nos.217 and 218 measuring 1365 sq.mts in Gurusamy Nagar in Vadavalli Village, Perur Taluk, Coimbatore District.

2. W.P.No.10528 of 2020 has been filed for the issuance of a Writ of Mandamus, forbearing the fourth respondent from any construction activities in the petitioner's property situated in SF.Nos.217 and 218 measuring 1365 square meters in Gurusamy Nagar in Vadavalli Village of Coimbatore District.



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3. W.P.No.19252 of 2020 has been filed for the issuance of Writ of Mandamus, directing the 3rd, 4th and 5th Respondents to remove a borewell and motor room in the petitioner's property situated in SF No.296/2, measuring an extent of 3188.7 Sq.mts Community Hall site in Padmavathi Nagar, Somayampalayam Village, Coimbatore District.

4. Heard both sides and perused the materials available on record.

5. The issue involved in these writ petitions are one and the same. Therefore, this Court is inclined to pass common order.

6. A large extent of land ad-measuring 13.81 acres was subjected for layout approval and approved as Gurusamy Nagar in Vadavalli Village, Perur Taluk, Coimbatore district. The approval was granted for the year 1985. Out of the total extent, the petitioner in W.P.No.28335 of 2017 purchased the property which is meant for marriage hall comprised in S.F.Nos.217 and 218 under two registered sale deeds dated 18.08.1986 vide Document No.3248 of 1986 and 3252 of 1986. As per the layout, the total extent of the land was subjected for layout ad-measuring 13.81 acres, in which the land ad-measuring 3560 sq.metre



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was earmarked for public purpose, the land ad-measuring 1365 sq.metre was earmarked for marriage hall, the land ad-measuring 680 sq.metre was earmarked for open space without building and the land ad-measuring 547 sq.metre is earmarked for shop.

7. As per the circular issued by the first respondent dated 24.05.1985, it was clarified that other reservations like marriage hall, community halls etc., belong to commercial category and it was felt that the layout owner should not be deprived of income which he may likely to get by disposal of these plots as he has to surrender to the Executive Authority of the local body as sizeable amount of land by way of non-commercial open spaces. Further, any layout which are less than 10 acres in extent, 10% of such area should be reserved only for open spaces such as parks, play fields etc.,. In cases of layouts of more than 10 acres in extent 50% of the total reservation may be provided for public purposes like marriage hall, community hall, reading room, library etc., and the balance 50% may be reserved as open space.

8. The petitioner in W.P.No.28335 of 2017 and 10528 of 2020 had purchased sites which are earmarked for marriage hall. However, he did not construct any marriage hall. While being so, the third respondent in



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W.P.No.28335 of 2017 had dispossessed the petitioner in W.P.No.28335 of 2017 and 10528 of 2020 from the subject property and had put up a compound wall.

9. The petitioner in W.P.No.19252 of 2020 had purchased land which was earmarked for community hall by the registered sale deed dated 02.02.1987 vide Document No.171 of 1987 in S.No.296/2 in Somyampalayam Village, Coimbatore. A large extent of land ad-measuring 12.3642 hectares was laid out in the name of Padmavathi Nagar, in which the land which was earmarked for community hall has been purchased by the petitioner in W.P.No.19252 of 2020. However, the petitioner in W.P.No.19252 of 2020 did not put up any construction in the subject land. While being so, the fourth and fifth respondent in W.P.No.19252 of 2020 had trespassed in the subject property and dug up a borewell and constructed a motor room by fixing motor and pumpset.

10. The learned Senior Counsel appearing for the petitioners submitted that as per the circular issued by the authorities concerned, the land which was subjected for layout of more than 10 acres, 10% of land has to be left out for public purpose, in which 5% of land has to be gifted in favour of the local body



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and 5% can be retained in the name of the developer. It is salable one. However, the purpose for which the said land was earmarked should not be changed for other purpose. The said land is never vested with the respondents and they have no semblance of right over the subject property which was purchased by the petitioners. Therefore, the petitioners submitted representation to remove the construction put up in the subject land and to remove the borewell and motor pumpset.

11. A perusal of the counter filed by the third respondent and also on the submissions made by the learned counsel for the respondents revealed that immediately after layout at 13.81 acres of land in the name of Gurusamy Nagar, 10% of total extent of land have to be earmarked for public purpose such as marriage hall and other purpose. After layout, Vadavalli Town Panchayat has merged with Coimbatore Corporation and as such, the third respondent in W.P.No.28335 of 2017 is the authority to safe guard the land which was earmarked for public purpose. Once the land is specifically allotted for the purpose of marriage hall, then it has to be used for the said purpose.

12. However, after knowing the fact that the subject property was earmarked for the purpose of marriage hall, the petitioners had purchased their



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respective properties. In fact, the petitioners had put up construction in the subject land and subsequently, the entire construction were removed and had taken possession of the subject land for the purpose of public use. Thereafter, the third respondent in W.P.No.28335 of 2017 had put up a compound wall and also dug up well to provide water for public purpose. The circulars relied by the petitioner was subsequently cancelled and the reserve sites for public purpose irrespective of the classification has to be vested with the Corporation and the Corporation is the custodian of the reserve sites.

13. Even as per the circular, the site which was reserved for public purpose have to be used only for the residents welfare and not for other purpose and sale. Immediately after layout, the subject land was transferred in favour of the wife and son of the developer. It shows that in order to usurp the property which was earmarked for public purpose, the developer encumbered the subject property by way of execution of sale deed that too in favour of his wife and son. That apart, the entire land is in usage of general public for the past several years.

14. In view of the above, the direction sought for in these writ petitions cannot be considered and the writ petitions are devoid of merits and is liable to



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be dismissed. Accordingly, these writ petitions are dismissed. Consequently,

connected Miscellaneous petitions are closed. No costs.

14.10.2024

Internet: Yes

Index : Yes/No

Neutral Citation: Yes/No

Speaking/Non Speaking order
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To

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Director of Town and Country Planning,
Building Division,
No.807, Anna Salai,
Chennai-600 002.
2. The Director,
Director of Town and Country Planning,
Head Office, No.807,
Anna Salai, Chennai-600 002.



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G.K.ILANTHIRAIYAN. J.

mn

8. The President,
Somayampalayam Panchayath,
Kalappanaickenpalayam,
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