



W.P.No.116 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2024

CORAM:

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

W.P.No.116 of 2024 and
WMP.No.125 of 2024

1.K.Rajeswari
2.A.K.Vijaya Jothi
3.A.K.Vijay Amaranth
4.A.K.Vijaya Anand

...Petitioners

Vs.

1.The District Collector,
Krishnagiri District,
Krishnagiri
2.The Thasildar,
Bargur Taluk,
Krishnagiri District
3.The Executive Officer,
Bargur Town Panchayat,
Krishnagiri District
4.R.Ravi
5.Santhosh Kumar

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 to 3 to remove the obstructions in the roads in T.Rangappan Nagar comprised in S.No.668/A of Bargur Village, Krishnagiri District and reopen the access to the petitioner's property in S.No.664/3B of Bargur Village and Taluk, Krishnagiri District.



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For Petitioners : Mr.T.P.Manoharan,
Senior Counsel
for Mr.T.Sathiyamoorthy

For Respondents

For R1 & 2 : Mr.V.Manoharan,
Additional Government Pleader

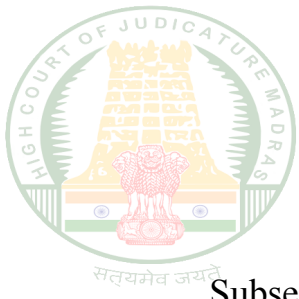
For R3 : Mr.M.Bindran

For R4 : Mr.M.Guruprad

ORDER

This writ petition has been filed for direction to the respondents to remove the obstructions in the roads in T.Rangappan Nagar comprised in survey No.668/A situated at Bargur Village, Krishnagiri District and also to reopen the access to the petitioners' property comprised in survey No.664/3B, Bargur Village.

2. The petitioners own property admeasuring 0.24.30 hectares of land comprised in survey no.664/3B, Bargur, Krishnagiri District which is situated adjacent to the land comprised in survey No.668/A, which was originally owned by the fourth respondent herein.

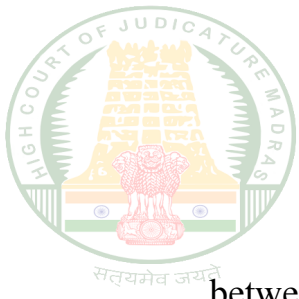


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Subsequently, he had laid out the said land in the year 2016-17 into 32 house plots. As per the said layout, 25 feet road was left between the plot No.32 and 90. Similarly, another 29 feet road is left out between plot Nos.7 and 18. Further, another 25 feet road was laid in plot No.6. Further, the 25 feet road was left between plot No.32 and 19 and 29 feet road is left between plot No.7 and 18 and the same is ended in the petitioners' property. From the said unapproved layout, the purchasers of the house plots had encroached into the petitioners' property and made construction without obtaining any approval. Therefore, the petitioners submitted representation to take action for illegal construction. Since no action was taken and as such, the petitioners were constrained to approach this Court in WP.No.20268 of 2017. This Court by order dated 06.11.2017, directed the third respondent to take appropriate action on the representation submitted by the petitioners within a period of eight weeks. Thereafter, the fourth respondent had obtained approval for the layout.

2.1 Further, as requested by the third respondent, the petitioner executed a gift deed dated 09.11.2018 registered vide document No.3660 of 2018 in respect of a portion of the land adjoining the existing road



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between plot Nos.19 and 32, thereby the roads have become public road and the developer i.e. the fourth respondent has no right over the property wherein the roads were laid in the layout. Thereafter, the first petitioner had executed settlement deed in favour of other three petitioners in respect of 30 cents and the remaining property admeasuring 28 cents comprised in survey no.664/3B is in her possession and enjoyment. In order to construct, the petitioners had applied for permission and started construction. While being so, with the support of the fifth respondent, who is the President of the Panchayat, the fourth respondent who is none other than a close relative of the fifth respondent fenced the road thereby prevented the petitioners' access to the main road. Therefore, the petitioners submitted representation and also filed writ petition before this Court in WP.No.20842 of 2023. As directed by this Court, the third respondent by its communication dated 17.08.2023, enclosed the report of the Tahsildar, Bargur Taluk. The Tahsildar conducted inspection and on verification of documents, it was found that the road has been fenced at the meeting point of road in T.Rangappan Nagar layout and the road portion was gifted by the petitioners in favour of Bargur Town Panchayat. Even then, no action has been taken to remove the fencing in



the road portion.

3. The learned Senior Counsel appearing for the petitioners pointed that though it is unapproved layout, Tamilnadu Regularisation of Unapproved Layouts and Plots Rules, 2017, Rule 7 speaks about guidelines for regularisation in which sub clause g (ii) says that all the roads and open space reservation area in the layout as shown in the layout framework shall be deemed to have been vested with the concerned local authority. Therefore, any encroachment in the portion in which road has been laid under Section 128 of Tamilnadu Urban Local Bodies Act, 1998, the Commissioner can take action to remove any immovable structure whether permanent or of temporary nature encroaching street or public place or the land belongs to or vested with the municipality, after issuing show cause notice for such removal, returnable within a period of seven days from the date of receipt thereof.

4. Though sufficient time was granted to the respondents, counter has not been filed. However on instruction, the learned counsel appearing for respondents 1 to 3 submitted that in between the property



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comprised in survey no.668/A and 664, there is unsold house plot and as such, the petitioners have no access in the land comprised in survey no.668/A.

5. Though the learned counsel for the fourth respondent submitted that the fencing put up by the fourth respondent is in his patta land, it is settled law that whether it is approved or unapproved, once a piece of land has been shown as road promising the purchasers that the access is available, it would get the character of road and it should be used only for the road purpose and it can neither be converted nor divested for other purpose or claimed as private property by the developer.

6. Further, as per the circular dated 02.07.2012, guidelines were issued with regard to roads and other places set apart for public utility. Accordingly, in respect of both approved and unapproved layouts where space is allocated for roads and public utilities, they should be surveyed separately and assigned separate survey No. It should be in the name of the Government or local body agencies as the case may be in the



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case of approved layout provided they have been handed over and / or taken over.

7. Further on perusal of the report submitted by the Tahsildar, Bargur, Krishnagiri District dated 14.02.2023, revealed that in the land comprised in survey no.668/A, there is a road with width of 25 feet. It was shown in the land and however, no documents have been executed. The owner of the land i.e. the fourth respondent, in between the property comprised in survey No.668/A and 664, put up wire fencing and as such, the said road has been obstructed by the fourth respondent.

8. In view of the above, the first respondent is directed to take appropriate action as against the fourth respondent under Section 128 of Tamilnadu Urban Local Bodies Act, 1998 to remove the obstructions put up by the fourth respondent in the road portion of T.Rangappan Nagar comprised in survey No.668/A, Bargur Village, Krishnagiri District within a period of twelve weeks from the date of receipt of copy of this order.



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9. With the above direction, this writ petition is allowed.

Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

04.10.2024
(2/2)

Neutral citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order
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To

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- 1.The District Collector,
Krishnagiri District,
Krishnagiri
- 2.The Thasildar,
Bargur Taluk,
Krishnagiri District
- 3.The Executive Officer,
Bargur Town Panchayat,
Krishnagiri District

G.K.ILANTHIRAIYAN, J.

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W.P.No.116 of 2024
and W.M.P.No.125 of 2024
G.K.ILANTHIRAIYAN.J

This matter is posted today before this Court under the caption 'For Being Mentioned' at the instance of the learned counsel appearing for the petitioners.

2. The learned counsel for the petitioners has brought to the notice of this Court in Paragraph No.8, in the first line of the order dated 04.10.2024 in W.P.No.116 of 2024, it has been erroneously stated as “the first respondent” instead of “the third respondent”.

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3. Accepting the submissions of the learned counsel for the petitioners, in Paragraph No.8, in the first line of the order dated 04.10.2024 in W.P.No.116 of 2024, it shall be read as “the third respondent”.

4. Registry is directed to carry out necessary corrections in the order dated 04.10.2024 in W.P.No.116 of 2024 and issue fresh order copy.

26.08.2025

Index:Yes/No
Internet:Yes/No
mn

G.K.ILANTHIRAIYAN, J.
mn

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and W.M.P.No.125 of 2024



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26.08.2025