



W.P.(MD)No.9987 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 03.12.2024

CORAM:

THE HONOURABLE **MRS.JUSTICE L.VICTORIA GOWRI**

W.P.(MD)No.9987 of 2024

and

W.M.P.(MD)No.9034 & 9036 of 2024

B.Renganayaki

... Petitioner

Vs.

1. The Assistant Director,
Town and Country Planning,
Office of the Town and Planning,
Theni District.
2. The Chairman,
Tamilnadu Real Estate Regulatory Authority,
No.1A, CMDA Tower II, 1st Floor,
Gandhi Irwin Bridge Road,
Egmore, Chennai - 600008.
3. The Tahsildar,
Theni, Theni District.
4. The Sub-Registrar,
Theni, Theni District.
5. The President,
Koduvilarpatti Panchayat,
Theni Panchayat Union,
Theni Taluk,
Theni District.

<https://www.madras.gov.in>



W.P.(MD)No.9987 of 2024

6.R.Gunasekaran

(*)7.A.Gunasundarai

8.R.Renuka

9.Chinnaraj

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, or any other appropriate writ of direction to quash the Layout approval given by the 1st respondent in L.P / A.D. DTCP (TD) No. SWP /71 / 2023 in respect of the land bearing Survey Number 371/2 situated in Koduvilarpatti Village, Theni Taluk, Theni District by calling for the records from the 1st respondent.

For Petitioner : Mr.V.Chandrasekar

For Respondents : Mr.S.Kameswaran (R1, R3 & R4)

Government Advocate

Mr.R.Satheesh (R2)

Standing Counsel

Mr.R.Murali (R9)

No appearance (R5, R6 to R8)

ORDER

Challenging the proceedings of the first respondent in L.P / A.D. DTCP (TD)

No. SWP /71 / 2023 dated 30.06.2023, this writ petition is filed.



W.P.(MD)No.9987 of 2024

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2. The petitioner and the 7th and 8th respondents are siblings. The 7th and 8th respondents executed a sale deed bearing Document No. 6457 of 2022 before the Sub Registrar, Theni dated 06.06.2022 with respect to the property in S.No. 371/2 measuring to an extent of 2 acres of land situated in Koduvilarpatti Village, Theni Taluk, Theni District in favour of the 9th respondent. The same was an agricultural land. The subject property was settled in favour of the 7th and 8th respondents as early as in the year 2008 itself, by their mother namely Andalammal. The said Andalammal acquired title over the same by the strength of an assignment in her favour as early as in the year 1970. After a period of almost 38 years from the date of assignment, the said Andalammal, who was the original title holder of the property executed a settlement deed in favour of the 7th and 8th respondents and the 7th and 8th respondents have perfected title over the subject property by effecting mutation in their favour.

3. That apart, the 7th and 8th respondents have also filed a suit for injunction in OS No.64 of 2010 before the file of the District Munsif Court, Theni, against all other siblings including the petitioner herein with respect to subject property of this writ petition and the same was declared in favour of the 7th and 8th respondents by



W.P.(MD)No.9987 of 2024

judgment and decree dated 27.07.2016. After purchase of the subject property from the 7th and 8th respondents, the 9th respondent, after completing all the formalities has made an application before the first respondent seeking approval for residential layout, which is to be promoted in the subject property in S.No. 371/2 measuring to an extent of 2 acres, situated in Koduvilarpatti Village, Theni Taluk, Theni District. The said application was processed and the first respondent granted approval for promotion of layout for the said land by the impugned order dated 30.06.2023. Challenging the same this writ petition is filed.

4. The learned counsel appearing for the petitioner vehemently submitted that suppressing the factum of the pendency of a civil suit in OS No.411 of 2022 filed by the sixth respondent as against the 7th and 8th respondents as well as his family members including the petitioner, seeking partition of the family properties, the application seeking for approval of residential plot has been made by the 9th respondent, which ought not to have been approved by the first respondent, by considering the pendency of the civil suit.

5. The learned counsel appearing for the petitioner drew my attention to the communication made by the first respondent to the third respondent dated



W.P.(MD)No.9987 of 2024

WEB COPY

29.10.2020 with respect to the application made by the respondents 7 and 8 to convert the property in S.No. 371/2 measuring to an extent of 2 acres, situated in Koduvilarpatti Village, Theni Taluk, Theni District, into a layout observing that the subject property has been assigned to one Andalammal by the proceedings of the Government of Tamilnadu vide DKT No.114 of 1980 dated 25.12.1970. Since the same is an assignment land, the proposal made by the 7th and 8th respondents for conversion of the same into a layout could be considered only after taking a final call as to whether an assignment land could be converted into a layout.

6. The learned counsel appearing for the petitioner also drew my attention to yet another communication made by the third respondent to the first respondent dated 08.12.2020 informing that the said land was assigned to one Andalammal as early as in the year 1970 and it was not possible to issue no objection certificate to convert the subject property into a residential layout. He further submitted that while the revenue authorities objected to conversion of the said land into a layout, now the impugned order of approving the said land for promotion of layout on an application made by the 9th respondent ought not to have been passed by the first respondent. On that basis, he pressed for quashing the impugned order of approval and pressed for allowing this petition.



W.P.(MD)No.9987 of 2024

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7. Per contra, the learned counsel appearing for the 9th respondent submitted that the question of suppression will not arise at all. The assignment was made as early as in the year 1970 and it is needless to state that after a period of 20 years, the assigned land could be utilized by the owners as per their preferences. Accordingly, only after a period of 38 years, the said Andalammal, in whose favour the said assignment was made by the government executed a settlement deed voluntarily out of love and affection in favour of two of her daughters, 7th and 8th respondents herein in the year 2008. After a period of almost 14 years, 7th and 8th respondents have sold the same to the 9th respondent and the 9th respondent had perfected his title by effecting mutation in his favour. He has promptly obtained no objection certificate from the agricultural department for conversion of the said land into a layout

8. The learned counsel appearing for the 9th respondent further submitted that 9th respondent's title over the subject property is strengthened by judgment and decree dated 27.07.2016 passed in the suit filed against petitioner herein and her siblings in OS No.64 of 2010 on the file of the District Munsif Court at Theni. In view of the same, the allegation made by the learned counsel appearing for the petitioner



W.P.(MD)No.9987 of 2024

are baseless and therefore, he vehemently contended that the writ petition is to be dismissed.

9. The learned Government Advocate appearing for the respondents 1, 3 and 4, on the basis of the counter affidavit filed by the first respondent, submitted that the 9th respondent had submitted a proposal for layout in the subject property through single window portal online by application dated 02.06.2023 along with the relevant documents. The department scrutinized all the documents and the revenue records and found that the subject property absolutely belonged to the 9th respondent and only thereafter, the Joint Director of Agriculture Department, Theni has also submitted his report stating that the property in S.No. 371/2 measuring to an extent of 2 acres situated in Koduvilarpatti Village, Theni Taluk, Theni District, could be used for development and other agricultural purpose vide letter No.T1/3837/2023 dated 16.05.2023.

10. The learned Government Advocate appearing for the respondents 1, 3 and 4 further submitted as per the rules made in the Tamil Nadu Combined Development and Building Rules 2019, the first respondent has issued Technical Clearance Certificate in approval No.L.P/AD DTCP(TD) NO:SWP/71/2023 in



W.P.(MD)No.9987 of 2024

respect of the subject property with certain conditions. As such, the first respondent has issued approval to the 9th respondent fully in connivance with all the necessary procedures as established under law.

11. The learned counsel appearing for the second respondent, on the basis of the counter affidavit filed by the second respondent, submitted that the 9th respondent has furnished a copy of the plan approved by the competent authority dated 30.06.2023 before the 2nd respondent. That apart, the president of Koduvilarpatti Village Panchayat has also approved the layout in letter RC No. 2/2023-2024, dated 25.07.2023. In addition to that, the promoter, namely, P.Chinnaraj, who is the 9th respondent herein, has furnished an Affidavit cum Declaration declaring that the promoter has title over the land on which the development of project is proposed to be made. Since the application made by 9th respondent was in order, the project was registered vide Registration No.TN/21/Layout/3207/2023 dated 25.8.2023 and duly hosted in TNRERA's website. This registration has been made as early as in August 2023. Now, after a period of more than one year, this writ petition is filed by the petitioner with an ulterior motive.



W.P.(MD)No.9987 of 2024

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12. Heard the learned counsel on either sides and perused the materials placed before this Court.

13. The claim of the petitioner is that 9th respondent had managed to obtain an approval for promotion of layout in the property in S.No. 371/2 measuring to an extent of 2 acres situated in Koduvilarpatti Village, Theni Taluk, Theni District, from the first respondent by suppressing the material facts as to the pendency of the civil suits in OS No.411 of 2022 before Subordinate Court, Theni and OS No.172 of 2023 on the file of the Principal District Judge, Theni.

14. The suit in OS No. 411 of 2022 seeking for partition is filed by the 6th respondent, who is the brother of the petitioner as against the 7th and 8th respondents, and two other siblings. Another suit in OS No.172 of 2023 seeking for partition is filed by this writ petitioner as against her siblings including the 6th to 9th respondents. In both the suits, the schedule of property consists of 9 items of property including the subject property in S.No. 371/2 measuring to an extent of 2 acres situated in Koduvilarpatti Village, Theni Taluk, Theni District.

15. This Court is of the considered view that the 9th respondent is in an



W.P.(MD)No.9987 of 2024

advantageous legal possession by the strength of the judgment and decree dated 27.07.2016 passed in OS No.64 of 2010 on the file of the District Munsif Court at Theni, as against all other siblings of the 7th and 8th respondents. It is also brought to my notice that no appeal was preferred by the siblings of the 7th and 8th respondents as against the judgment and decree dated 27.07.2016 passed in OS No.64 of 2010 on the file of the District Munsif Court at Theni and the same has become final as far as the subject property of the writ petition is concerned. No doubt, the assignment land in favour of Andalammal was settled by her in favour of the 7th and 8th respondents only after a period of 38 years, which will not render the said settlement deed illegal. The 9th respondent had purchased the same after a period of 14 years from the 7th and 8th respondents and has perfected his title over the same by effecting mutation.

16. The learned Government Advocate appearing for the first respondent and the learned counsel appearing for the second respondent have filed their counter affidavits and based on the same, they have categorically submitted before this Court that 9th respondent has obtained necessary permissions and no objection certificates from all the relevant departments and only on perusal and appreciation of the same, the first respondent has passed the impugned order of approving the promotion of layout in S.No. 371/2 measuring to an extent of 2 acres situated in



W.P.(MD)No.9987 of 2024

Koduvilarpatti Village, Theni Taluk, Theni District.

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17. Accordingly, I do not find any demerit in the impugned order dated 30.06.2023 passed by the first respondent and it is unnecessary to interfere with the same. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

03.12.2024

(*)Amended as per the order of this court dated 18.03.2025 made in WP(MD).No. 9987 of 2024.

Sd/-

Assistant Registrar(CO)

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/03/2025

Sub Assistant Registrar()

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To be substituted to the order which is already despatched on 06.03.2025
TO:-

1. The Assistant Director,
Town and Country Planning,
Office of the Town and Planning,
Theni District.



W.P.(MD)No.9987 of 2024

2. The Tahsildar,
Theni, Theni District.

3. The Sub-Registrar,
Theni, Theni District.

+1 CC to M/s.V.CHANDRASEKAR, Advocate (SR-70063[F] dated 03/12/2024)

+1 CC to M/s.R.SATHIEESH, Advocate (SR-70261[F] dated 03/12/2024)

+1 CC to M/s.A.BALAJI, Advocate (SR-70252[F] dated 03/12/2024)

+1 CC to M/s.SPL.GP (SR-70666[F] dated 04/12/2024)

W.P.(MD)No.9987 of 2024

Dated:03.12.2024

VN (06/02/2025) 12P / 8C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.

VN (20/03/2025) 12P / 8C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.