



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 11.09.2025

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

W.P.No.27866 of 2023
and WMP.No.27362 of 2023

K.S.Yaswant Kumar

S/o K.R. Sadasivam,

No. 23, Kuloor, Aval Poondurai Village,

Modakurichi Taluk, Erode District 638 104.

.. Petitioner

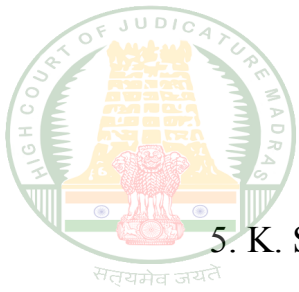
Vs

1. The Director,
Town and Country Planning, 2nd and 3rd Floors,
C and E Market Road, Koyambedu,
Chennai 600 107.

2. The Deputy Director (General),
Direct Town and Country Planning Office,
Erode 638 011.

3. The President,
Kuloor Panchayat, Aval Poondurai Village,
Modakurichi Taluk, Erode District.

4. C. Venkatachalam
Secretary, Kuloor Panchayat, Aval Poondurai Village,
Modakurichi Taluk, Erode District.



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5. K. Sivaranjith

312-GH, Amman Street,
Chettipalayam, Ashok Nagar,
Moolapalayam, Erode.

.. Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records relating to the order passed by 2nd respondent herein kopu No. 2219 / 2021 / EMa -3 (Manai pirivu / MA / Va/ E.Ma / No. 301 of 2022) dated 07.11.2022 and to quash the same as illegal, arbitrary and contrary.

For Petitioner	: Mr.P.R.Raman, Senior Counsel for Mr.E.Shanmuga Sundaram
For R1 to R3	: Mr. L.S.M. Hasan Faizal, AGP
For R5	: Mr.S.Parthasarathy, Senior Counsel for Mr.V.S.Kesavan

ORDER

The petitioner challenges the order of the 2nd respondent in granting the layout approval for the properties situated in R.S.No.1557/1, Old Ka.Sa.No.83, Kuloor, Aval Poondurai Village, Modakurichi Taluk, Erode District.



WEB COPY 2. The petitioner states that he is a doctor and was away from his native town between 2011 to 2020 in order to complete his studies. On his return, he was shocked to know that the properties, which came down to his parents, had been alienated by them without his consent. Consequently, he filed a suit for partition and separate possession. He also sought for a declaration that alienation made by his parents to others, who have been impleaded as defendants, is null and void and not binding on him. The suit has been numbered as O.S.No.379 of 2020 on the file of the I Additional District Court at Erode. Subsequently, it came to his knowledge that the 4th respondent / purchaser of the property, from the persons arrayed by him as defendants, had obtained permission on 07.11.2022 from the 2nd respondent to create layouts and sell the plots so laid out. Aggrieved by the same, the present writ petition.

3. This Court entertained the writ petition on 26.09.2023 and directed the respondents to file counter. The State respondents, in particular, the 2nd respondent has filed a detailed counter. In paragraph 6 of the counter affidavit, the 2nd respondent has stated that applications and documents were filed by the 5th respondent herein before him.



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Thereafter, he perused the same and came to a conclusion that the 5th respondent had a clear and marketable title with respect to the properties, which are the subject matter of layout. He further points out that, in order to arrive at such a conclusion, the fifth respondent had taken the opinion of the Government Pleader of the area, and satisfied himself with respect to the aforesaid aspect and granted approval. The 2nd respondent further pleads that the Town and Country Planning authorities, not being parties to the suit in O.S.No.379 of 2020, were not aware of the same. Furthermore, the 2nd respondent pleads that as there was no interim order or a direction given by the Court, they proceeded to process the application.

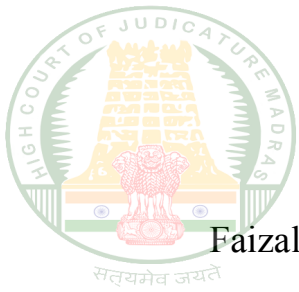
4. The stranger purchaser 5th respondent has also filed a counter affidavit. According to him, the 2nd defendant in the suit, namely, the mother of the plaintiff viz., S.Vijayarani, had purchased the property on 15.02.2000. He asserts that it is a self-acquired property. He further points out that earlier to the sale in his favour, the said S.Vijayarani had entered into an agreement of sale with one, Palanisamy. The same had been registered on the file of the Sub-Registrar's Office, Aval Poondurai. The agreement, though extended, did not culminate into a sale deed.



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Consequently, the sale agreement was cancelled by another registered cancellation deed dated 22.11.2012. He adds that the said Vijayarani had entered into another agreement with one, N.Balasubramaniyam, and registered the document on 19.12.2013. This sale agreement crystallised into a sale deed in favour of the said Balasubramaniyam on 24.08.2015. Subsequently, Balasubramaniyam had sold this property to the 5th respondent for valuable consideration on 10.08.2020. The 5th respondent further adds that he decided to form the layout and sell the same as housing plots. He pleads that he has complied with all the legal requirements and there are no illegalities in issuance of the same. In order to get over any difficulty that he might face in the suit, the 5th respondent pleads that the suit came to be presented at least three months after he had purchased the property on 09.11.2020. In the concluding paragraph, he pleads that Balasubramaniyam had only obtained the self-acquired property of Vijayarani and that there are no co-sharers to her, as averred in the affidavit. Hence, he pleads for dismissal of the writ petition.

5. I heard Mr.P.R.Raman, learned senior counsel, for Mr.E.Shanmuga Sundaram for the writ petitioner, Mr.L.S.M. Hasan



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Faizal, learned Additional Government Pleader, for respondents 1 to 3 and Mr.S.Parthasarathy, learned senior counsel, instructed by Mr.V.S.Kesavan for the 5th respondent.

6. Mr.P.R.Raman invites my attention to Rule 6(7) of the Tamil Nadu Combined Development and Building Rules, 2019. He urges that in terms of the rules, only an actual owner of the property can file an application seeking for approval and since the title of the 5th respondent is under the cloud, the planning permission deserves to be quashed. He adds that the 3rd respondent, namely, the President of the local panchayat, was informed about the pendency of O.S.No.379 of 2020 and therefore, he should have taken cognizance of the same and cancelled the permission so granted.

7. Mr.L.S.M. Hasan Faizal and Mr.S.Parthasarathy reiterated the contentions that have been raised in their respective counter affidavits. They state that as the issue is a subject matter of a consideration before the learned I Additional District Judge at Erode, the same cannot be gone into by way of a writ petition.



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8. I have carefully considered the submissions of both sides and I

have gone through the records.

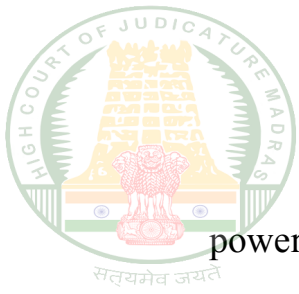
9. The long and short of this case is that the petitioner pleads he has a share in the subject property and the 5th respondent is not entitled to develop layouts on the same. Since the petitioner has a share, he urges that the 2nd respondent ought not to have granted the layout permission. Rule 6(7) of the Tamil Nadu Combined Development and Building Rules, 2019 reads as follows:

“6. Application for Planning Permission and Building Permit.—

.. ..

(7) An application in Form - A in Annexure - I accompanied by proof of ownership, plans, specifications, etc., mentioned therein shall be submitted to the competent authority in case of subdivision or layout or reconstitution or amalgamation of land for building purposes.”

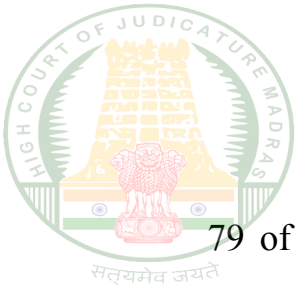
This rule has to be read along with Rule 6(1). Under 6(1), the applicant should assert that he is the owner of the land or the lease holder or the



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power of attorney holder, with the right to develop the property, which is the subject matter of the application. A reading of Rule 6 in its entirety reveals that it does not enable the planning authorities, either under the Tamil Nadu Town and Country Planning Act, 1971, or under the Tamil Nadu Urban Local Bodies Act of 1998, or the Tamil Nadu Panchayats Act of 1994, to probe into a question of title. It is only a Civil Court which possess that jurisdiction. The petitioner has rightly approached the Civil Court seeking for a partition and separate possession in his share in the property. The 5th respondent has claimed that he is the owner. When documents are presented before the 2nd respondent indicating the ownership, the role of the 2nd respondent stops there. He is not empowered to look beyond the documents and conclude whether there are any other persons, who have a supposed or actual claim to the said property. The power to declare title is one too precious to be surrendered by the Courts in the altars of the executive. As Rule 6 in its entirety does not contemplate the authority to go into title, the plea of Mr.P.R.Raman that the layout approval deserves to be quashed does not appeal to me.

10. Mr.P.R.Raman pleads that an order granting permission to develop layouts on the property would come within the scope of Section



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79 of the Town and Country Planning Act and therefore, if this Court were not to agree with the submission made by him, he should be granted liberty to file an appeal before the appropriate authority.

11. I have two difficulties in acceding to this request. It has been a practice of this Court not to push a party to an alternate remedy once the writ petition has been entertained. This is because pushing a party to resort to an alternate remedy is a rule of convenience. It is adopted at the stage of admission to ensure that a litigant gets quick remedy to the pleas raised by him. This writ petition having been entertained and has pending since 2023; if I were to push the petitioner to pursue an alternate remedy, it would neither be fair nor just to the petitioner as well as to the 5th respondent.

12. The second difficulty that I face is having concluded that the executive authorities, which includes the town planning authorities, are not entitled to go into the question of title, if I were to permit the petitioner to go to an alternate remedy, it will run contrary to the law declared by me in the previous paragraphs.



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13. In the light of the above discussions, this writ petition is dismissed. It is made clear that I have not gone into the issue, nor can I go into the issue as to whether the petitioner has a share in the property. The assertions of title made by the 5th respondent and of the shares made by the petitioner will be dealt with by the learned I Additional District Judge at Erode in O.S.No.379 of 2020. This writ petition is confined to the point which has been submitted for this Court's consideration. The Learned I Additional District Judge, Erode shall not be swayed by any of the observations made in the writ petition. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

11.09.2025

Index:Yes/No
Internet:Yes/No
Neutral Citation : Yes/No

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V. LAKSHMINARAYANAN,J.

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