

WP(MD) No.15714 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON
03.01.2025

PRONOUNCED ON
28.02.2025

CORAM:

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD)No.15714 of 2017
WMP.(MD).No.12422 of 2017

T.G.Santhanam @ T.G.Santhana Battar

... Petitioner

vs.

- 1.The Director of Town and Country Planning,
807, Anna Salai,
Chennai – 2.
- 2.The District Collector,
Tiruchirappalli.
- 3.The Assistant Director,
Town and Country Planning,
No.10, Williams Road,
Cantonment, Tiruchirappalli.
- 4.The Block Development Officer,
Manachanallur Post,
Tiruchirappalli.
- 5.The President,
Madhava Perumal Village Panchayat,
Manachanallur Panchayat Union,
Tiruchirappalli District.



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6.The Sub-Registrar,
Manachanallur,
Tiruchirappalli District.

7.Sumathi

8.Girija

9.R.Marimuthu

... Respondents

PRAYER :- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent in its impugned proceedings in Na.Ka.No. 22030/16/LA2, dated 17.07.2017 and quash the same and to direct the respondents 1 to 5 to ensure provision of approach roads to the petitioner's lands comprised in Survey No.190/8A2B, Madhava Perumal Kovil Village, Manachanallur Taluk, Tiruchirappalli District by taking appropriate action against the respondents 7 to 9 and securing the release of rights of the land ear marked by the respondents 7 to 9 as a blockade to the layout roads in the Rajagiri Nagar layout and in the interregnum to restrain the respondents 7 to 9 their men and agents from encumbering in any manner whatsoever the remaining unsold out lands in the Rajagiri Nagar layout comprised in Survey Nos.190/6, 190/7 part, 170/1, 190/7 part, 170/A, 193/3, Part 170/4, 193/4 etc., at Madhava Perumal Kovil Village Manachanallur Taluk, Tiruchirappalli District.

For Petitioner : Ms.Maria Roseline

For Respondents : Mr.J.K.Jeyaseelan G.A., for RR1-4&6



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ORDER

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This instant writ petition filed for an order of interim injunction restraining the respondents 7 to 9 from encumbering in any manner, the subjected land and to quash the impugned order passed by the first respondent with regard to rejection of approved layout and to secure the rights of the petitioner.

2. Heard Ms.Maria Roseline learned counsel appearing for the petitioner and Mr.J.K.Jeyaseelan, learned Government Advocate appearing for the respondents 1 to 4 and 6. In spite of notice being served on the respondents 7 to 9, they have neither chosen to appear in person nor through their counsel.

3. Mr.Ms.Maria Roseline, learned counsel for the petitioner would submit that the petitioner owns lands in Survey No.190/8A2B at Madhava Perumal Kovil Village, Manachanallur Taluk, Trichy, adjoining the property of the petitioner, the land belonging to respondents 7 to 9 were promoted by them. The petitioner can approach the main road only through



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the land belonging to respondents 7 to 9. However, when they had formed the layout, they had not provided any approach road to enable the petitioner to reach the petitioner's property. The respondents 7 to 9 have left out a portion of the land from the ambit of the layout approval in such a way to block the ingress and egress of the petitioner to his land. Hence he had earlier approached this Court by a Writ of Mandamus in which recording that they had been granted with a layout approval, liberty was given to the petitioner to file an appeal. Against the same, the petitioner had preferred an appeal before the first respondent. However, the first respondent rejected the appeal by holding that the roads have been laid upto the boundary of the layout and that the plan approval had been granted as early as in the year 2003 and the layout had already been sold and therefore, there can be no question of canceling the said layout approval. He would submit that the respondents 7 to 9 had purposefully laid a layout in such a way to block the right of the petitioner.

4. He would also rely upon a Report of the learned Advocate Commissioner and submit that a portion of 330 Sq.ft of land belonging to the respondents 7 to 9 are lying between the road sanctioned and the



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petitioner's property. They have willfully taken out a layout approval to deny the petitioner right of ingress and egress affecting his constitutional right under Article 300A. Therefore, he would submit that an injunction also ought to have been granted against the respondents 7 to 9 from preventing the petitioner from accessing his land belonging to respondents 7 to 9.

5. Mr.J.K.Jeyaseelan, Learned counsel appearing on behalf of the respondents 1 to 4 & 6 would submit that the layout had been sanctioned as per the law. He would submit that the roads had been laid and permitted in the layout till the boundaries of the land till which the layout had been approved. Respondents 7 to 9 are the promoters had retained a certain portion of the land in between the layout and the petitioner's land. The said land retained by the respondents 7 to 9 do not form part of the approved layout. Therefore, it is only a private dispute between the petitioner and the respondents 7 to 9 and for that reason the layout can't be questioned. Therefore, he would submit that there is no necessity to interfere with the order impugned passed by the first respondent and it is for the petitioner to work out his civil rights before the appropriate Court.



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6. Heard the learned counsels appearing for their respective parties

and had perused the materials available on record.

7. Admittedly, a sanctioned layout had been granted to respondents 7 to 9. A perusal of the layout approval would show that the roads have also been laid upto the boundary of the layout through which the lands abetting the said layout can be approached. The learned Advocate Commissioner had filed a detailed Report including a sketch of the layout and the land abetting the layout. A reading of the Report would also show that inspite of notice of the commission, respondents 7 to 9 have also failed to appear during the inspection. Respondents 7 to 9 seems to have retained certain portion of the lands that lies between the land belonging to the petitioner and the approved layout given in favour of respondents 7 to 9. A 30 feet road leading to the main road would stop at the end of the land retained by the respondents 7 to 9.

8. From a bare perusal of the sketch given by the learned Advocate Commissioner, the land that has been retained by the respondents 7 to 9 measures about 330 Sq.ft. There was only 9X30 ft of land available between

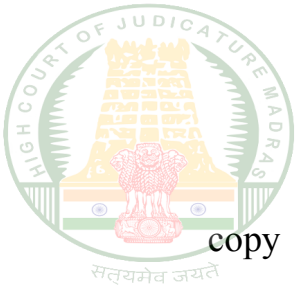


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the petitioner's land and the layout approved. Taking advantage of the same, the petitioner is being prevented by respondents 7 to 9 from accessing his property. The unapproved land retained by the respondents 7 to 9 retains the classification of an agricultural land and therefore they cannot prevent the petitioner from accessing his land through the land retained by the respondents 7 to 9 from the approved layout road to his land. If the petitioner's right is not protected, it would definitely affect this right envisaged under Article 300A of the Constitution of India as he cannot beneficially enjoy his land. However, considering the fact that civil rights of respondents 7 to 9 is also involved in this Writ Petition, this Court is of the view that the right of the petitioner to have ingress and egress to his land in the lands belonging to the respondents 7 to 9 can be very well protected for a period of time within which the petitioner ought to approach the appropriate Civil Court to work out the remedy of his civil rights namely the easementary rights to reach his property.

9. In such view of the matter, the Writ Petition is partly allowed and respondents 7 to 9 are enjoined by this Court not to interfere with the right of the petitioner for a period of three months from the date of receipt of a



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copy of this order, within which time the petitioner shall approach the appropriate Civil Court seeking remedy of his civil rights in the manner known to law.

10. With the above directions, this Writ Petition is partly allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

28.02.2025

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
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A Pre-delivery order made in
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