

(2012) 02 MAD CK 0229
In the Madras High Court
Case No : Writ Petition No. 18361 of 2011

S.V. Kanakaraj

APPELLANT

Vs

The District Collector, Coimbatore District, Coimbatore, The
President, Sulakkal Panchayat, S. Marimuthu and Sri Kanchi
Kamatchi Amman Property Promoters

RESPONDENT

Date of Decision : 14-02-2012

Acts Referred:

Citation : (2012) 02 MAD CK 0229

Hon'ble Judges : Vinod K. Sharma, J

Bench : Single Bench

Advocate : K. Kalyanasundaram, for the Appellant; P. Karthikeyan, GA and Mr.
R. Ravichandran, AGP for Respondent 1, for the Respondent

Judgement

Honourable Mr. Justice Vinod K. Sharma

1. The petitioner has approached this court with the prayer for issuance of a writ in the nature of a Mandamus, directing the respondents 1 and 2 to consider the representation of the petitioner dated 20.06.2011, and not to approve the lay out of the fourth respondent. The averments made in the affidavit, filed in support of the petition do not show how the District Collector is concerned for approval of lay out plan.
2. There is no legal obligation of the first respondent, to grant or reject lay out plan. Therefore, it can safely said that the first respondent has been wrongly impleaded as party.
3. In support of the prayer in the affidavit, it is pleaded that the petitioner owns the land measuring 7.50 acres in Sulakkal Village, Pollachi Taluk which is being used for agricultural purpose. The third respondent who was earlier using his land for agricultural purposes, has sold this land to the fourth respondent, who is a promoter.
4. The case of the petitioner is that because of the developmental process, the

rain water will not flow to his land and will damage his land during the rainy season.

5. It is the submission of the petitioner, that the level of the land of third and fourth respondent is above the land level of the petitioner, therefore, on levelling of the land for development, the flow of water would be changed, affecting the land of the petitioner.

6. The submission of the petitioner is also that the land cannot be used for commercial purpose, being agricultural land.

7. The second respondent is to consider the desirability to grant building permission in accordance with law it cannot be presumed or expected that authorities will not act according to rules and regulations.

8. The petitioner can always file objections to the authorities under the act. In case the planning permission is granted and it resulted in any damage, the remedy of the petitioner is to approach the Civil Court for necessary relief. No writ in the nature of a Mandamus can be issued in the absence of petitioner showing the legal right and corresponding legal obligation on the part of the respondent, the petitioner in fact wants a directions to the respondents not to perform their statutory obligation to consider the application for grant of planning permission. Merely on the vague allegations that certain damage may be caused in rainy season etc., and in the absence of any evidence in support thereof, this Court cannot exercise the writ jurisdiction to prohibit the exercise of statutory duty. No merit. Dismissed. No costs.