

HC: Don't register sale deed of flats on unauthorised plots

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Chennai: In a ruling that could turn the unauthorised segment of real estate industry upside down, the Madras high court has imposed a blanket ban on registration of sale deed of structures built on unauthorised plots and layouts. The order effectively puts the onus of not registering an unauthorised property on the registering authority.

Underlying the need to prevent reckless conversion of farm lands into residential plots, flooding and haphazard development in the state, the court directed the inspector-general of registration to circulate the order to all registering authorities in Tamil Nadu.

"We hereby direct that no registering authority shall register any sale deed in respect of any plots in unauthorized layouts or any flats/buildings constructed on such plots. This order becomes necessary to

 We direct that no registering authority shall register any sale deed of any plots in unauthorized layouts or any flats/buildings on such plots. **This is to prevent further development of unauthorized layouts**
Sanjay Kishan Kaul,
CHIEF JUSTICE
R Mahadevan, JUSTICE

prevent further development of unauthorized layouts and conversion of agricultural areas for non-agricultural use in an unplanned manner, as also to save ecology and prevent flooding while simultaneously giving time to the government to come forth with necessary policy documents and legislative changes," said the first bench comprising Chief Justice Sanjay Kishan Kaul and Justice R Mahadevan.

► **Sale deed, P 4**

If development is illegal, sale deed will be invalid: Bench

► From P 1

It then adjourned the case to October 21 for further hearing.

"We are concerned with the absence of any provision for the Act/rules/regulations at present describing any wetland lying idle for more than three years, to be converted into residential or other use," the judges said. "We are of the view that this aspect would brook no delay till the government develops some thought process and brings into force Section 22A of Registration (Tamil Nadu Amendment) Act 2008," they added.

The bench was passing orders on a PIL filed by advocate Elephant G Rajendran seeking to forbear authorities from giving approval or permission to convert agricultural lands into layout and consequential relief of forbearing the inspector general of registration from registering the unapproved land and buildings.

When an additional advocate general of Tamil Nadu, representing the registration department, told the bench that authorities could not refuse registration where plots in unauthorized colonies were sought to be registered, the bench said the sale deed itself would become incapable of registration in such situations. When

Times View

The judicial ban on registering the sale deed of unauthorized plots and houses has come not a moment too soon. The higher judiciary had to step in as every stakeholder was found conniving with each other and thriving in the illegality. It has now become the responsibility of officials not to register sale deeds if they are not duly laid out and approved as per law. While it safeguards the interests of buyers, the ruling will jeopardise those already having houses built on unauthorized plots. They are saddled with property they cannot convert into cash.

there is no sanction for developing the area, when the roads and plots are developed by unauthorised persons and when there is nothing to indicate where the roads and common areas are, the "sale deed itself would become incapable of registration," it said.

In this regard, the bench recalled a **TOI** report highlighting how wetland area in Chennai itself had been reduced from about 80% in the 1980s to 15% at present, and said the bench itself noticed the fact in an earlier order on a similar PIL on September 6.

When gullible small investors lose th

Taken in by claims of 'panchayat approval', many people are stuck with plots in unapproved layouts

K. MANIKANDAN

CHENNAI: When V. Ravikumar wanted to buy a piece of land in the temple town of Kancheepuram, his native place, he found a 'panchayat-approved' housing plot being offered at Rs. 4.50 lakh. He has so far paid nearly Rs. 3 lakh in instalments.

Then came the shocker. He cannot register the plot in his name as the Madras High Court has banned registration of sites unless they form part of a layout approved by top planning bodies such as the Chennai Metropolitan Development Corporation and the Directorate of Town and Country Planning.

"Since the High Court order last Friday, there is confusion among layout promoters, property buyers, and even staff in the sub-registrar office who have no idea about the specific provision," Mr. Ravikumar said.

There are many more like him across the State. Promoters who have sold 'panchayat-approved' plots are now asking their clients to rush to the sub-registrar offices to have their property registered as soon as possible. Most of them may not succeed, and are likely to be greeted by the sort of notice that many suburban sub-registrar offices now display prominently.

"The High Court has prohibited the registration of unapproved plots, flats, and buildings. Therefore, it is notified that documents will be accepted for registration only if approval from CMDA or DTCP is available," says the notice.

Several thousands of families have purchased such 'panchayat-approved' plots. The term itself is wrong in the first place as panchayats are not authorised to approve layouts. For most buyers, it is investment they believed that could be redeemed in some future moment of need. There seems to be no escape now with their property turning into a 'zero-return' asset.

Officials are tight-lipped about the larger implications about the ban on registration—which has been welcomed by town planning activists and those worried

There seems to be no escape for buyers as their property has turned into a 'zero-return' asset

about rampant illegal conversion of wetlands and farmlands into housing plots by developers who managed to get some panchayats to 'approve' them and then parcel them off as plots to unsuspecting buyers.

Organised players in the construction industry, urban planners, and activists are of the opinion that the court has finally put an end to the 'land re-use classification' racket, but some others feel that it is a body blow to lower income groups for whom small housing plots help them out during distress.

Suresh Krishn, president, Confederation of Real Estate Developers Association of India, Chennai, said the order was a timely one in

preventing further misuse of rules to get approval for housing layouts when there was no possibility. The rule would prevent further exploitation of gullible people, especially the poor. "People have to be cautious from now before buying property," he said.

"The High Court has finally put an end to the rampant misuse of agricultural land.

"Had conversion of agriculture land as housing plots continued, Tamil Nadu would have had to go to the neighbouring States with a begging bowl for food," said G. Shyam Sundar, advocate. He pointed out that the Conversion of Paddy Land and Wetland Act, 2008 in neighbouring Kerala ensured the protection of agriculture land.

"It is a fantastic order. In the guise of land use change, a big fraud has been going on," said M.G. Devasahayam, former administrator of Chandigarh Capital Project.

However, a village panchayat president in St. Thomas Mount Panchayat Union in the city's southern suburb, said the development would hit the poor very hard and it would result in harassment of people who own small plots.

There is no doubt that registrations, and therefore, revenue from stamp duty and registration charges, will see a drastic fall.

Both the government and the realty sector have been jolted by the High Court order. They can no more turn a blind eye to the menace of unapproved plots.

GROUND ZERO

The HC has said the Government should bring into force Section 22-A of the Registration (Tamil Nadu Amendment) Act, 2008



A RED FLAG: Panchayat-approved plots are not a safe investment, especially if they are in a layout formed near a water body. — PHOTO: B. JOTHI RAMALINGAM

Understanding Section 22-A

- Prevents registration of sale deeds for plots in unauthorised layouts
- Lays down that officials should verify if the plot is approved by the urban planning authorities

before registering the transfer of the title

- Bars the Registration Department from registering any document relating to transfer of immovable properties by way of sale, gift, mortgage, exchange or lease

Positives

- Will put an end to haphazard development
- The practice of village panchayat presidents giving 'approval' to housing plots on fertile lands will stop

Negatives

- People from lower income groups who have purchased unapproved plots as investment will be hit hard
- People who need to pledge or sell property for loans for personal expenses will be driven to usurious lenders
- The Registration Department will lose income as bulk of revenue comes from registration of unapproved property

'Non-notification of amendment, a deliberate act on part of govt.'

SPECIAL CORRESPONDENT

CHENNAI: The Madras High Court's order can also be seen as the fallout of the State government failing to bring into force the amended Section 22A of the Registration Act for nearly eight years.

The provision, which prevents registration of sale deeds relating to plots in unapproved layouts, was introduced by way of an amendment in 2008.

"It is more than a failure. It was intentionally and deliberately not notified and not implemented," said M.G. Devasahayam, former administrator, Chandigarh Capital Project. It was around that time several approvals were granted for multi-storied building projects. Rampant approvals in violation of rules were made then, Mr. Devasahayam said.

"There is nothing new in the High Court order. The CMDA had in 2007 instructed

local bodies not to give approval for any layouts measuring 1,000 square metres," said a former member secretary of the planning agency.

According to advocate G. Shyam Sundar, one possible option available to the government was to accord *post facto* approval or regularisation or ratification. The hard-earned money of low income group families could be safeguarded only through such a measure, he said.

"This is further to the article published in the "Times of India", Chennai Edition of the Madras High Court order dated 9.9.2016 on the fate of unauthorized lay out.

The article and commentary/ views of "The Hindu" Chennai Edition dated 15.9.2016 is as below.

It is to be noted that **Green Princess Cottage Gardens Layout**, a private layout promoted as a gated community plots during 1990s, in Sirudavur, O.M.R is an unregularized and unapproved Layout and plot owners in the layout are badly affected.

However, the Association is taking all efforts to have the layout regularized. Plot owners in the Layout who have not enrolled as members are strongly advised to enrol as members in the Association soonest."

Thanks and regards
Gppowa