



WEB COPY

WP No. 20276 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 10-07-2026**

CORAM

**THE HON'BLE DR JUSTICE G. JAYACHANDRAN**

**AND**

**THE HON'BLE MRS.JUSTICE N. MALA**

**WP No. 20276 of 2026 and**  
**WMP NO. 21728 OF 2026**

G.Venkatkumar,  
S/o.Govindaraj,  
Plot No. 46B, Viknarajapuram,  
Vallancheri,  
Maraimalainagar,  
Chengalpattu Taluk and District.

..Petitioner(s)

Vs

The Commissioner  
Municipality Office,  
Maraimalainagar Municipality,  
Chengalpattu District.

..Respondent(s)

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari, calling for the records relating to the notice dated 11.05.2026 in Na.Ka. No. 2383 / 2024/ F1 issued by the respondent, quash the same.

For Petitioner(s): G.Mageshkumar

For Respondent(s): M/s. P.Srinivas, St.C.



### Order

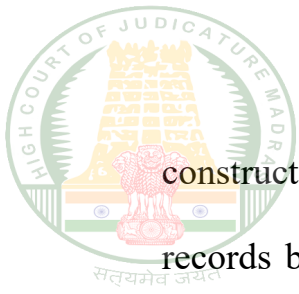
*(Order of the Court was made by Dr.G.Jayachandran J.)*

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The writ petitioner herein claims that he purchased a house-site measuring an extent of 800 sq.ft., in S.No.122/20B1B forming part of layout and bearing portion of the plot No.46B. Having purchased the said property in the year 2024, the petitioner tried to put up construction in the said land. However, the Commissioner of Corporation, Maraimalai Nagar, caused impugned notice dated 11.05.2026, to stop the construction stating that the said piece of land had been earmarked for a public purpose under the layout plan approval and citing the decision of this Court in the review petition filed by the Corporation against the order passed in the writ petition, WP.No.38893/2024.

2.The learned counsel appearing for the petitioner submitted that one K.Gous Basha, who purchased a portion of the same Plot No.46B, approached this Court by filing WP.No.38893 of 2024, contending that the said land though assigned for the public purpose, not having been duly notified within three years, the said assignment got lapsed as per Section 38 of the Tamil Nadu Town and Country Planning Act, 1971. This Court, accepting the said contention, allowed the writ petition filed by K.Gous Basha, on 02.01.2025.

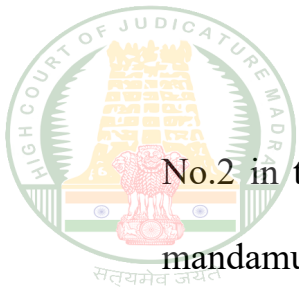
3.The learned counsel appearing for the petitioner submitted that the impugned notice dated 11.05.2026, directing the petitioner to stop the



construction, was issued without giving him an opportunity to place the relevant records before the Commissioner of Maraimalai Nagar Municipality to justify his ownership and his right to put up construction on the disputed site.

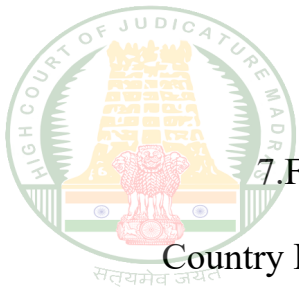
4.The learned Standing counsel appearing for the respondent submitted that the promoter of the layout had gifted the said portion of the land, which is now identified as plot No.46B falling in S.No.122/20B1B, to the Municipality. While so, the above said K.Gous Basha, who had purchased the land gifted to the Municipality, obtained an order from the learned Single Judge, contending that the land stood released from the reservation made for public purpose pursuant to the Master Plan, on the failure to publish the declaration within three years, under Section 38 of the Tamil Nadu Town and Country Planning Act, 1971. Hence, pointing out the error, the Municipality filed Review Petition in WMP.No.889 of 2026 and the same is pending.

5.We have given our anxious consideration to the submissions made by the learned counsel appearing for the petitioner and the learned Standing counsel appearing for the respondent. The impugned notice dated 11.05.2026 refers to the earlier orders of the High Court. However, the Commissioner has not mentioned under which provision of law, stop construction notice had been issued to the petitioner herein and to one K.Gous Basha. The order in the writ petition in WP.No.38893 of 2024, dated 02.01.2025, which is referred as Item



No.2 in the impugned notice reveals that K.Gous Basha had filed the writ of mandamus seeking direction to the Deputy Director of Town and Country Planning, to dispose of the representation dated 05.08.2024, seeking release of his land namely Plot No.46B admeasuring to an extent of 3200 sq.ft., situated at No.51, New No.28, Vallancheri Village, Chengalpattu Taluk and District comprised in Old S.No.122/1, new Survey No.122/20B and now sub-divided as Survey No.122/20B1B comprised in Patta No.651 of the Vignarayapuram layout.

6.The learned Single Judge considering the scope of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, and the earlier orders of this Court, observed that the land was not acquired within three years from the date of publication of the Detailed Development Plan and hence directed its release to the owner. In the said writ petition, K.Gous Basha had not impleaded the Municipality which was a necessary party being the owner of the subject land as per the Gift Deed of the promoter of the layout. We further find from a reading of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, that it relates to land reserved, allotted or designated for any purpose specified in a Regional Plan, Master Plan, Detailed Development Plan or New Town Development Plan and not to private / individual layout.



7. For the sake of convenience, Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, is extracted as below:-

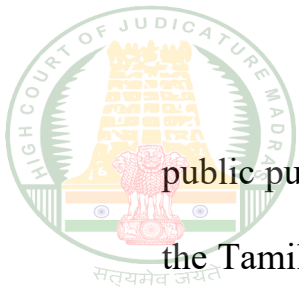
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**‘‘38.Release of land:-***If within three years from the date of the publication of the notice in the Tamil Nadu Government Gazette under section 26 or section 27-*

*[a] no declaration as provided in sub-section [2] of section 37 is published in respect of any land reserved, allotted or designated for any purpose specified in a regional plan, master plan, detailed development plan or new town development plan covered by such notice ; or*

*[b]such land is not acquired by agreement, such land shall be deemed to be released from such reservation, allotment or designation.’’*

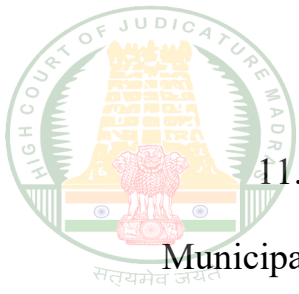
8. Viknarajapuram layout, which was approved in DTP No.15/76 is private / individual layout. The layout approval was granted, after gifting the portion of the land earmarked /reserved for public purposes. The promoters suppressing the gift to the Municipality, sold away the portion of the gifted land to the 3<sup>rd</sup> parties, viz., K.Gous Basha and the present writ petitioner, G.Venkatkumar,. Drawing parity with K.Gous Basha’s case, the present writ petitioner seeks Writ of Certiorari, to quash the impugned notice on the premise that for want of acquisition, as contemplated under Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, no relief whatsoever can be effected in favour of the Municipality, since the acquisition had lapsed and the property reverted to the owners. We find that the gift of the land reserved for



public purpose while getting approval of the layout, is pursuant to Section 49 of the Tamil Nadu Town and Country Planning Act, 1971. The domain of Section 38 of the Act, is entirely different, it deals with regional plan, master plan, detailed development plan or new town development plan.

9.It is now brought to our notice that misapplication of Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, in the case of K.Gous Basha [Wp.No.38893 of 2024] is now the subject matter of review application in WMP.No.889 of 2026.

10.Be that as it may, we make it clear that the case of the writ petitioner is not covered under Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, since the land purchased by the petitioner is claimed by the Municipality as the land gifted to it under Doc.No.3090/1989. The gift executed at the time of consideration of the application of the promoter made under Section 49 of the Tamil Nadu Town and Country Planning Act, 1971, is an absolute gift, which cannot be revoked or cancelled. The landlord, who has dealt with the gifted property, is answerable to his purchaser and not the Municipality. It is observed that the impugned notice dated 11.05.2026, has been issued to stop the construction without any prior opportunity to the petitioner to show cause as to why such action should not be taken against him.



11. We are of the view that the land, which has been gifted to the Municipality, while granting layout permission, is vested with the Municipality and it is to be treated as the land owned by the local body. Hence, the provisions of Tamil Nadu Urban Local Bodies Act, 1998, governs the management of the said property. Hence, the impugned notice dated 11.05.2026, is to be treated as notice issued under Section 128 of Tamil Nadu Urban Local Bodies Act, 1998. Therefore, the writ petitioner shall treat the notice as show cause notice under the above Act and give his representation, if any, within 15 days, from the date of receipt of a copy of this order. On receiving such representation, the respondent shall consider the representation and pass appropriate orders.

12. With the above observation, this writ petition is disposed of. No order as to costs. Consequently, connected Miscellaneous Petition is closed.

**(G.J.,J.) (N.M.,J.)**  
**10-07-2026**

Index: Yes/No  
Neutral Citation: Yes/No  
ari/AP  
To  
The Commissioner,  
Municipality Office, Maraimalai Nagar Municipality  
Chengalpattu District.



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