

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	09/07/2018
Delivered on	11/07/2018

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

W.P.No.16461 of 2018 &
W.M.P.No.19671 of 2018

M/s.Golden Home Private Limited,
Represented by its Authorized Signatory,
Mrs.S.Rekha Rani,
AC 63, 5th Avenue Anna Nagar,
Chennai - 600 040. ... Petitioner

Vs.

The Commissioner,
Poonamallee Municipality,
Poonamallee - 600 056. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the respondent municipality to grant permission to the petitioner along with the promoters of Golden Opulence namely M/s.Golden Homes Pvt. Ltd. to develop the OSR area gifted to the municipality as children park play area, green cover, cricket nets, basketball court and tennis court and also park with walking tracks at their expenses as per their drawings annexed with the request by accepting the undertaking given by the promoter to develop the OSR given to the municipality vide their letter dated 09.01.2018 along with petitioner's association without claiming any right title or interest or possessory rights over the OSR area as against the municipality at any point of time.

For Petitioner : Mr.S.Sundaresan
For Respondent : Mr.P.Srinivas
Standing Counsel

O R D E R

Heard Mr.S.Sundaresan, learned counsel for the petitioner, Mr.P.Srinivas, learned Standing Counsel for the respondent and perused the materials available on record.

2. The petitioner seeks issuance of Writ of Mandamus, directing the respondent-Municipality to grant permission for development of OSR area as children park play area, green cover, cricket nets, basketball court and tennis court, by accepting the undertaking given by the petitioner vide their letter dated 09.01.2018.

3. The petitioner is a developer, who claims to have completed the project "Golden Opulence" at Poonamallee Bypass Road. The petitioner states that as per one of the conditions of planning and building permit, the Company has gifted an area measuring an extent of 32590 sq.ft, by a registered gift deed dated 14.02.2012 in favour of the respondent-Municipality and has sought permission to develop the OSR lands by submitting the undertaking agreement letter dated 09.02.2018. Since no favourable reply was forthcoming, the present Writ Petition.

4. The learned counsel for the petitioner by relying upon Annexure XX of Volume II of Development Regulations (Second Master Plan for Chennai Metropolitan Area, 2026) submitted that the petitioner is entitled to develop OSR area, but his request was not considered due to the reason that the petitioner filed Writ Petition against the respondent Municipality for renewal of building permit.

5. The learned Standing Counsel for the respondent by referring to the counter filed by the respondent submitted that the gifted lands have been handed over to the respondent by CMDA by their letter dated 22.02.2012. The respondent-Municipality has prepared detailed project report for development of four parks and they are awaiting administrative and financial approval and therefore, it is not possible to permit the petitioner to develop the OSR area. It is further submitted that non-consideration of the application is nothing to do with the previous writ petition filed by the petitioner against the respondent-Municipality. Further, the request to develop the OSR area has not come from the Residential Welfare Association, but the petitioner, who is the developer may not have any interest to maintain the park after the entire flats have been sold.

6. In the instant case, indisputably about 13.57 grounds or 32590 sq.ft has been gifted in favour of the respondent in compliance of the condition of planning and building permit. The petitioner by giving an undertaking that he will not claim any right over the property nor seek any financial help in developing the area has approached the respondent, seeking permission through his letters dated 13.11.2017 and 09.01.2018, but no orders have been passed on the request of the petitioner so far.

7. Considering the above facts and circumstances of the case, this Court directs the respondent to consider the representations / letters of the petitioner dated 13.11.2017 and 09.01.2018 and pass orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

8. Accordingly, the Writ Petition is disposed of. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

r n s

To

The Commissioner,
Poonamallee Municipality,
Poonamallee - 600 056.

+1cc to Mr.Sundaresan, Advocate, S.R.No.45216
+1cc to Mr.P.Srinivas, Advocate, S.R.No.46033

W.P.No.16461 of 2018 &
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SV (CO)
BM 26/07/2018

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