



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.6436 of 2021

R.Prakash

... Petitioner

Vs

1. The Deputy Director of Town & Country Planning,
Dharmapuri Region,
Dharmapuri.

2. The Executive Officer,
Karimangalam Town Panchayat,
Karimangalam,
Dharmapuri District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to forthwith execute necessary Deed of Transfer transferring the O.S.R. lands gifted by the petitioner, to the petitioner, comprised in Survey No.307/1B, and the land in Survey No.308/2C, situated at Karimangalam, Dharmapuri District, by considering and passing necessary orders on the application of the petitioner dated 12.10.2017, based on the Government Order in G.O.Ms.No.161, Housing & Urban Development Department, dated 26.06.2013.

For Petitioner : Mr.K.Selvaraj

For R1 : Mr.D.Venkatesan, GA

For R2 : M/s.R.Janaki

ORDER

The relief sought in this writ petition is to direct the respondents to forthwith execute Deed of Transfer in respect of the O.S.R. land comprised in Survey No.307/1B and the land in Survey No.308/2C situated at Karimangalam, Dharmapuri District, gifted by the petitioner, by considering the petitioner's application dated 12.10.2017 and also on the basis of



G.O.Ms.No.161, Housing & Urban Development Department, dated 26.06.2013.

2. According to the petitioner, his school is run by Saraswathi Educational Trust, which Trust has constructed the school buildings in S.Nos.307/1B, 308/1B and 308/2C at Karimangalam, Dharmapuri District, after getting necessary approval and Building Plan from the second respondent / Deputy Director of Town and Country Planning, on 17.03.2011. When the petitioner submitted application for approval of additional building plan, the first respondent required him to execute necessary Gift Deed in respect of OSR lands. Accordingly, the petitioner executed a deed dated 07.06.2013 in favour of the second respondent gifting the land measuring about 1260 sq.mts in S.No.307/1B and the entire land in S.No.308/2C. While so, the Government vide G.O.Ms.No.161, Housing and Urban Development [UD4 (3)] Department dated 26.06.2013, ordered that the OSR lands belonging to the Educational Institutions need not be handed over to the local bodies and the same can be retained by them subject to the condition that the same should be maintained as vacant land to be utilised as park for the benefit of the students of the Educational Institutions. Therefore the petitioner made an application on 12.10.2017 to the 1st respondent requesting to return the OSR lands already gifted, to the petitioner. On receipt of the same, the 1st respondent by letter dated 24.10.2017 directed the 2nd respondent to take necessary action on the same. However, no steps have been taken with regard to the claim of the petitioner. Hence, this writ petition.

3. Heard both sides and perused the materials available on record.

4. Admittedly, by G.O.Ms.No.161, Housing and Urban Development [UD4 (3)] Department dated 26.06.2013, it has been directed that in respect of educational institutions for whom the Open Space Reservation Regulation is applicable, the OSR lands shall be earmarked and kept open to sky without any construction with the condition that the OSR area should be utilised only as a park and not as a playground by the concerned institutions. Therefore, the claim of the petitioner made in his application dated 12.10.2017 has to be considered by the 2nd respondent, in the light of the said G.O. and as per the direction of the 1st respondent dated 24.10.2017.

5. Accordingly, this writ petition stands disposed of by directing the 2nd respondent to consider the application dated 12.10.2017 submitted by the petitioner, in the light of the aforesaid G.O.Ms.No.161, Housing and Urban Development [UD4 (3)] Department dated 26.06.2013 and as per the direction of the 1st



respondent dated 24.10.2017 and pass appropriate orders on merits and in accordance with law, after affording an opportunity of hearing to the petitioner, within a period of eight (8) weeks from the date of receipt of copy of this order. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mtl

To

1. The Deputy Director of Town & Country Planning,
Dharmapuri Region,
Dharmapuri.
2. The Executive Officer,
Karimangalam Town Panchayat,
Karimangalam,
Dharmapuri District.

+1cc to Mr.K. Selvaraj, Advocate, S.R.No.22621
+1cc to the Government Pleader, S.R.No.22481

W.P.No.6436 of 2021

LN(CO)
CT(16/07/2021)