



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MRS.JUSTICE N.MALA

W.P.No.12378 of 2022

A.Suriya

.. Petitioner-in Person

Vs

1. The Government of Tamil Nadu,
rep. by its Secretary to Government,
Housing and Urban Development Department,
Fort St. George,
Chennai - 600 009.
2. Union of India,
Through, The Secretary,
Ministry of Education
(Formerly HRD Ministry)
Shastri Bhawan, New Delhi - 110 001.
3. The Secretary,
Auroville Foundation,
Auroville Foundation Bhavan,
Administrative Area - Town Hall,
Auroville, Villupuram-605 101
Tamil Nadu, India.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for a writ of declaration for declaring the foundation's self-made Appendix-IV Clauses 1-5 of the Auroville Universal Township Master Plan Perspective 2025 (Gazette of India notified on 16.8.2010, Gazette of India published on 28.8.2010) as ultra vires and also their entire illegal land exchange deeds and purchase deeds done since 28.8.2010 (Gazette of India publication date) by using these appendix IV Clauses 1-5 of the Auroville Universal Township Master Plan Perspective 2025 as Void ab initio" (my land and my family land purchased, exchanged by the foundation survey numbers annexed) for Section 46 of the Right to Fair Compensation and Transparency in Land



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Acquisition Act, 2013 (RFCTLARR Act), Section 37 of the Tamil Nadu Town and Country Planning Act, 1971, 2018 (TTCP Act), Appendix-IV clause 6 (para 1) of the said Auroville Master Plan and G.O. dated 20.1.2003 and may kindly exclude the land title dispute exchange deed dated 24.9.2013 document No.5000 of 2013 registered at Vanur S.R.O.

For the Petitioner : Mr.A.Suriya
Petitioner-in-Person

For the Respondents : Mr.P.Muthukumar
State Government Pleader
assisted by
Mrs.R.Anitha
Special Government Pleader
for respondent No.1

: Mr.R.Rabu Manohar
SCGC
for respondent No.2

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

The writ petition has been filed to challenge certain clauses of the Auroville Universal Township Master Plan Perspective, 2025, notified on 16.8.2010 and published in gazette on 28.8.2010. A challenge is also made to the land exchange deeds and purchase deeds executed since 28.8.2010.

2. The writ petition to challenge the notification dated 16.8.2010, published in the gazette on 28.8.2010, is after lapse of almost 12 years without giving any justification for the delay and otherwise the jurisdiction of this court is being misused by the petitioner, as the present writ petition is the third in succession. The first writ petition, being W.P.No.17181 of 2020, was filed by the petitioner's father for the same relief. The said writ petition was withdrawn, as per the statement of fact given in paragraph 27 of the affidavit to the writ petition. The petitioner himself filed a writ petition, being W.P.No.18220 of 2021, which was withdrawn on 20.1.2022 with liberty to avail the remedy in accordance with law against the infraction of his personal interest. It seems to be without bringing to the notice of the court that, for the same relief, earlier the petitioner's father preferred a writ petition and withdrew it unconditionally, without liberty to file a fresh writ petition.



3. Yet, the petitioner filed the present writ petition, after the dismissal of the writ petition filed by him seeking the same relief. The second writ petition itself was not maintainable and even if liberty was given, it cannot go against the order passed by the court in the writ petition preferred by the petitioner's father for the same relief, as stated in paragraph 27 of the affidavit which is quoted hereunder:

"27. I state that, my father had approached this Hon'ble High Court earlier for the same relief via the W.P.No.17181 of 2020 and my father had withdrawn it due to his health issues and we had applied for counter affidavit certified copy in the same W.P.No.17181 of 2020 to get it annexed in the present petition and the certified counter affidavit copy was not issued till date by the CD - copy section (S.R.No.3174 of 2022 or 3176 of 2022) and I am filing the counter affidavit that was received by my father via registered post from the Auroville Foundation's Advocate. I had also filed a PIL and was withdrawn as per the order of this Hon'ble High Court in the W.P.No.18220 of 2021 on 24.1.2022 and gave me liberty to file a petition in accordance with law while hearing the W.P.No.597 of 2022 dated 20.1.2022. No other petition was filed by me or my family members for the above-mentioned Auroville Foundation's illegal land exchange/purchase. I am also affected by the Auroville Foundation's aforementioned illegal, self-serving coercive land purchase/exchange methods and illegalities done by the Auroville Foundation Authorities since 28.8.2010, as I am also one among the Auroville Master Plan affected private landowner. My father is suffering from cataract and aged 60 and my other family members are not fluent in reading or writing in English...."

4. The reference of the fact aforesaid has been given to show misuse of the jurisdiction of this court and while arguing the writ petition, the petitioner, appearing in person, did not refer to the earlier litigation. However, while the court was going through the pleadings, it was noticed that earlier the petitioner's father preferred a writ petition and he is still alive. The writ petition aforesaid was withdrawn without liberty to file a fresh writ petition. Yet, the petitioner filed another writ petition, which was withdrawn with limited liberty to avail the remedy in accordance with law against the infraction of his personal interest. However, instead of pursuing the remedy under civil law in reference to the land



belonging to the petitioner, the third writ petition has been filed seeking the same relief as prayed for in the earlier writ petitions. It is even without justifying the delay, because even the first writ petition preferred by the petitioner's father was after lapse of 10 years from the date of the gazette notification. In the meanwhile, the petitioner's father exchanged the land with the third respondent without raising any objection to the Master Plan and the notification under challenge. Thus, even the petitioner's father had accepted the Master Plan and, therefore, exchanged the land with the third respondent. The petitioner had taken the land in exchange out of the plan area and now remains one more part of the land for which the petitioner is asking for compensation or reasonable consideration from the third respondent, who have expressed their inability to purchase the land in the absence of required funds and, thus, they cannot be forced to purchase the land from the petitioner.

5. The Master Plan cannot otherwise be subjected to challenge unless it is carved out in violation of the constitutional or statutory provisions. It is for the reason that Master Plan is drawn for proper development of the area and, therefore, a part may be kept for the development of the area for the purpose for which Master Plan is drawn. In the instant case, it is not a Master Plan drawn for the entire city, but while drawing the Master Plan for the city, certain areas are earmarked for green belt/ecological zone/eco-sensitive zone. If any land belonging to the private person lies within the area earmarked as green belt or ecology zone, challenge cannot be made to allow them to use the land for any other purpose than given in the Master Plan. Rather, the Master Plan has to be drawn to protect the environmental balance, ecology and biodiversity.

6. The issue aforesaid was dealt with by the Larger Bench of the Rajasthan High Court in the case of Gulab Kothari v. State of Rajasthan, 2019 (2) WLN 331 (Raj.), and the relevant paragraph of the said judgment is quoted hereunder:

"54. In view of the discussion above, we modify/clarify the directions issued by Division Bench of this court vide order dated 12.1.17 to the extent indicated below and issue further directions:

(a) The directions issued by this court vide directions No. (ii) & (iii) directing preparation of Zonal Development Plan for each zone simultaneously with the preparation of Master Development Plan or immediately thereafter, are reiterated and the modification of the said directions as prayed for, is declined.



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(b) The prayer for modification of directions Nos. (v), (vi) & (vii) is declined, however, it is clarified that the Green Zone delineated in the Master Development Plan-2011 of Jaipur Region has to be protected and the diversion of the area earmarked as Ecological Zone/Green Zone to other use as contained in Jaipur Master Development Plan-2025, which runs contrary to the directions issued by this court, shall not be made operative. Further, the diversion of the land use delineated in the Master Development Plan-2011 for Ecological Zone/Green Area proposed to be diverted for other use under Master Development Plan-2025 is directed to be restored as Ecological Zone/Green Area and no activities other than those which are permitted in the Ecological Zone/Green Area shall be open to be permitted therein by the State Authorities/Development Authorities.

(c) The prayer for permitting the construction of multi-storey buildings in existing residential colonies, which are developed with infrastructure facilities keeping in view the number of family units to be settled in the houses to be constructed in such colonies is declined and the directions as contained in direction no. (xvi) of order dated 12.1.17, are reiterated.

(d) The prayer for modification of directions no. (xx) & (xxi) so as to permit compounding of unauthorised constructions violating the building line and the set back norms laid down under the Building Byelaws or otherwise by the concerned local authority, in terms of Rules of 1966, is declined. It is clarified that only the deviations from the building plan duly sanctioned, which in no manner otherwise violate the norms laid down under the Building Byelaws regulating the constructions in the local area could be permitted to be compounded and not the deviations which affect the rights of other inhabitants settled in the local area, such as, height of the building, projections, set backs, absence of parking area etc.

(e) The respondents are further directed not to permit conversion of land use/regularisation of unauthorised colony or individual unauthorised constructions until and unless the Zonal Development Plan and Sector Plans for the local



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area concerned governed by Master Development Plan are prepared, finalized and notified in accordance with law. Further, the conversion of the land use or regularisation of unauthorised development shall not be permitted unless the unauthorised development undertaken fulfills the norms laid down for requisite infrastructure facilities and amenities and conforms to the Master Development Plan/Zonal Development Plan/ Sector Plans/Schemes duly notified."

[emphasis supplied]

7. In view of the facts of this case and as the present writ petition would not be maintainable in the light of the dismissal of the earlier two writ petitions without liberty to file fresh writ petition, on the aforesaid ground alone, the present writ petition is liable to be dismissed. However, touching upon other aspects also, we do not find that the relief prayed by the petitioner can be granted, when the petitioner has not justified the delay of more than 12 years to challenge the gazette notification dated 28.8.2010.

8. The writ petition, accordingly, is dismissed. It is however made clear that the dismissal of the writ petition would not affect the petitioner in any manner to use the land for the purpose permissible under law and as per the Master Plan. At the same time, there would not be any hindrance for exchange or purchase of the land by the third respondent, if it is negotiated and agreed on the terms by the petitioner and the third respondent.

There will be no order as to costs. Consequently, W.M.P.Nos.11832 and 11837 of 2022 are closed.

Sd/-
Deputy Registrar(CS)

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Sub Assistant Registrar

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To:

1. The Secretary to Government,
Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St. George,
Chennai - 600 009.



2. The Secretary,
Union of India,
Ministry of Education
(Formerly HRD Ministry)
Shastri Bhawan, New Delhi - 110 001.

3. The Secretary,
Auroville Foundation,
Auroville Foundation Bhavan,
Administrative Area - Town Hall,
Auroville, Villupuram-605 101

+1cc to Mr.A.Suriya, Advocate, S.R.No.32701

+1cc to Mr.B.Rabu Manohar, Advocate, S.R.No.32378

+1cc to the Government Pleader, S.R.No.33129 (20/06/2022)

W.P.No.12378 of 2022

SKM(CO)
UMA(13/06/2022)