



W.P.(MD)No.9888 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 26.09.2022

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THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition (MD) No.9888 of 2019

R.Saravanan

.. Petitioner

Versus

1.The Chief Secretary,
Government of Tamil Nadu,
Chennai.

2.The Commissioner of Municipal Administration,
Ezhilagam,
6th Floor, Kamarajar Salai,
Chepauk, Chennai – 600 005.

3.The District Collector,
Dindigul District.

4.The Commissioner of Municipal Administration,
Madurai Division, Madurai.

5.The Commissioner,
Dindigul Corporation,
Dindigul.

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the first respondent to extend the 6 meter road through the petitioner's plot for the purpose of public pathway of the MIG residence and to provide the same extent of land from the vacant land, situated in front of the house of the petitioner after receiving the consideration based on the Government value of that site and further, to



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modify the original plan of R.M.Colony, Dindigul, as mentioned in the petitioner's representation, dated 06.04.2019, within a time frame that may be stipulated by this Court.

For Petitioner : Mr.V.Palanichamy
For Respondents 1 to 4 : Mr.D.Gandhiraj
Special Government Pleader
For 5th Respondent : Mr.J.Lawrance

ORDER

The petitioner has prayed for issuance of a Writ of Mandamus, to direct the first respondent to extend the 6 meter road through his plot for the purpose of public pathway of the MIG residence and to provide the same extent of land from the vacant land, situated in front of his house after receiving the consideration based on the Government value of that site and further, to modify the original plan of R.M.Colony, Dindigul, as mentioned in the his representation, dated 06.04.2019, within a time frame that may be stipulated by this Court.

2.According to the petitioner, his son namely, R.Saravanan purchased Plot No.H.68-L from Madurai Housing Unit on 17.11.2000. Thereafter, he executed a general power deed, dated 28.06.2022, in favour of the petitioner before the Vendasandur Sub-Registrar Office at Vendasandur. The property tax has been regularly paid to the fourth respondent. The Madurai Housing Unit



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executed a sale deed, dated 26.02.2010, in favour of his son, and allotted a small portion of the vacant site for Park. However, the said land was not used for the said purpose. Immediately, the petitioner has approached the fourth respondent and submitted a representation, dated 14.02.2015, but the same was not considered. Therefore, again, the petitioner sent a representation to the respondents 1 and 4, dated 19.02.2016. The fourth respondent, vide his communication, dated 20.04.2016, rejected the petitioner's request. Hence, the petitioner sent a representation dated 28.07.2016, to the fourth respondent under the Right to Information Act, 2005. Thereafter, the fourth respondent informed that the petitioner's representation was varied from the quoted judgment. Again, the petitioner sent representations to the respondents on various dates. However, no action has been taken on the petitioner's representations. Hence, the petitioner has approached this Court by way of filing the present Writ Petition.

3.The fifth respondent filed a counter affidavit stating that the petitioner is not entitled to the relief sought for in the present Writ Petition. The petitioner's request has already been rejected vide proceedings in Na.Ka.No. 3026/2016/F3, dated 24.10.2016. The petitioner has not chosen to challenge the said proceedings. The land measuring an extent of 120 sq.ft. is concerned, was earmarked for construction of a Park and the said land is under the control



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of the fifth respondent. The said area namely, Rani Mangammal Colony Unit

II was developed as housing plots under various categories morefully, LIG, MIG and HIG etc. by the Tamil Nadu Housing Board. Further, the Director of Town and Country Planning also approved the scheme and gave approval vide Plan Approval No.67/06. As per the said approval, certain extent of lands were earmarked for public purposes morefully, construction of roads, pathway, parks, drainage channels, small bridges, ground level water tanks and overhead tanks etc. Further, vide Document No.257, dated 25.01.2010, the Managing Director of the Tamil Nadu Housing Board also executed a gift deed in favour of the fifth respondent Corporation for public purposes. Insofar as 120 sq.ft. of land mentioned by petitioner is concerned, the same is earmarked for public purposes and the same cannot be assigned to anyone.

4.Further, as per G.O.(Ms)No.730, dated 14.04.1996, the immovable property of the Corporation cannot be transferred to any person's name. In the said circumstances, the question of possession of the said extent of land since 2000 by the petitioner does not arise and therefore, prayed for dismissal of the Writ Petition.

5.Considering the submissions made by the learned counsel appearing on either side, it is seen that the said 120 sq.ft. of land mentioned by petitioner,



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is shown as Park in the revenue records and only thereafter, layout was formed and it was approved. Hence, the said land cannot be utilized for any other purposes and the claim made by the petitioner was rejected. The petitioner has got no right to ask for the said land. It is made clear that it is MIG type of houses and the property, which has been earmarked for Park cannot be utilized for any other purposes, which is made clear in catena of judgments of this Court and there cannot be any violation of those judgments and the petitioner's claim was rejected and this Court is not inclined to direct the Director of Town and Country Planning not to approve the scheme and earmark the lands for public purposes, such as, construction of roads, pathway, parks, drainage channels, small bridges, ground level water tanks and over head tanks etc. Further, vide Document No.257, dated 25.01.2010, the Managing Director of Tamil Nadu Housing Board also executed a gift deed in favour of the fifth respondent for development of the earmarked places for public purposes. This being a housing colony, the Corporation cannot transfer the said land, which has been earmarked for Park only and the same cannot be used for any other purposes and therefore, the claim of the petitioner cannot be accepted. It is also made clear that the respondent Corporation to maintain the same as a Park, by putting up proper fence and develop it as a Park, so that, the children in the said area can utilize the same as a playing area.



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6.The Writ Petition is dismissed with the above observation. No costs.

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V.BHAVANI SUBBAROYAN, J.

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Order made in
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