



W.P.(MD)No.15865 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 27.06.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.15865 of 2021

M.Mariammal

... Petitioner

Vs.

1.The Director,
Directorate of Town and Country Planning,
Chennai.

2.The Deputy Director,
District Town and Country Planning Office,
Thoothukudi District,
Thoothukudi.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the second respondent in ந.க.எண்.872/2020 துரமாஅ. நாள்.12/08/2021 as illegal, quash the same and consequently, direct the respondents to grant approval to the petitioner's layout regularization application bearing Registration Number DTCP/P/0021228/2017, dated 10.12.2020 by accepting the gift deed executed by the petitioner in favour of Kovilpatti Panchayat Union through Document No.3632/2006 for the purpose of Open Space Reservation, without asking further allocation of land.



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For Petitioner : Mr.S.Saravanan

For Respondents : Mr.N.Ramesh Arumugam
Government Advocate

ORDER

Heard the learned counsel on either side.

2. The petitioner promoted layout in Survey No.162/2 in Karisalkulam Village in Sivanthipatti Panchayat, Kovilpatti Taluk, Thoothukudi District. Originally, it was an unapproved layout. The petitioner submitted an application seeking regularization on 10.12.2020. The petitioner's request was not accepted and the second respondent by the impugned communication dated 12.08.2021 informed the petitioner that the petitioner must hand over the road portion and the area earmarked as park and thereafter, re-submit the application for regularization. Challenging the same, this writ petition has been filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of this petition.

4. Per contra, the learned Government Advocate submitted that the impugned communication does not call for any interference.



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5. I carefully considered the rival contentions and went through the materials on record. It is seen that the petitioner had executed a gift deed in favour of Kovilpatti Panchayat Union as early as on 22.06.2006. The document had been registered as document No.3632/2006 on the file of the Sub Registrar Office, Kovilpatti. The petitioner had gifted 604.08 square meters of land in favour of the local body. It appears that on the lands so called by the petitioner, the local body had put up a temple as well as library. The petitioner's counsel would contend that when once the petitioner had gifted 600 square meters of land as OSR in favour of the local body, the petitioner cannot be faulted for the manner in which the local body had put the said OSR to use.

6. I find the said contention to be sustainable. The fact remains that the petitioner is entitled to the benefit under G.O.Ms.No.100, Housing and Urban Development Department, dated 01.07.2019. Under the said G.O., a new Rule was incorporated as per which the petitioner has to provide 10% of the unsold plot area in a layout in one contiguous stretch or in definite dimension and transfer the same through a registered gift deed. According to the petitioner, as on date, 1411 square



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meters of land are remaining as unsold plots. Therefore, the petitioner to avail the benefit of the said G.O. has to execute a gift deed providing 141 square meters of land in one definite dimension in favour of the local body. The petitioner of-course has to hand over the road portion also. If the petitioner fulfils these two conditions, the second respondent is obliged to grant approval in his favour.

7. The Writ Petition is disposed of accordingly. No costs.

27.06.2022

Index : Yes / No
Internet : Yes/ No
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To

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G.R.SWAMINATHAN,J.

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