



WEB COPY



W.P.No.24530 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2023

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.24530 of 2023
and
W.M.P.No.23946 of 2023

M.Mallika

... Petitioner

VS.

- 1.The Director
Town and Country Planning
807, Anna Salai,
Chennai-02.
- 2.The Deputy Director,
District Town and Country Planning Office,
1st Floor, Kumaran Commercial Complex,
Tiruppur-641601.
- 3.The Assistant Director
Town and Country Planning
Tirupur Zone and Region,
Tirupur District.
- 4.The Commissioner/Block Development Officer
Pallapalayam Panchayat,
Udumalpet Union,
Tiruppur District.



W.P.No.24530 of 2023

5.The President
Pallapalayam Panchayat,
Udumalpet Union,
Tiruppur District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 24.07.2023 passed by the 3rd respondent in Na.Ka.No.1345/2023/su aa tha and quash the same as illegal and consequently direct the 3rd respondent to comply with the guidelines issued by the 1st respondent vide ROC No.4367/2019-BA2 dated 05.02.2020 within such time as may be stipulated by this Court.

For Petitioner : Mr.M.Sudhan

For R1 to R3 : Mr.P.Anandhakumar
Government Advocate

For R4 and R5 : Mr.K.H.Ravikumar
Government Advocate

ORDER

The petitioner herein by way of this writ petition challenging the order passed by the 3rd respondent rejecting the request of the petitioner to accept the guideline value of the OSR lands in lieu of execution of gift deed in favour of the Local Authority.



W.P.No.24530 of 2023

2. The petitioner herein purchased 1 acre of land situated in S.No.50/A3B2 in Pallapalayam Village Panchayat, Udumalpet Taluk, Tiruppur District and she laid a layout in the said land and obtained permission for the same from Competent Authority namely the 3rd respondent. Pursuant to the approval order granted by the 3rd respondent, the petitioner executed a Gift Deed in favour of the 5th respondent in respect of common areas like roads and parks.

3. Thereafter, 1st respondent issued a Circular dated 05.02.2020 wherein it was stated that if the total extent of the layout is less than 3000 sq.mts., the promoter need not hand over the OSR lands in favour of the Local Authority, instead he can pay the guideline value of the OSR lands. Therefore, the petitioner submitted a representation on 04.05.2023 to the respondents stating that she was ready to pay the guideline value of the OSR land in the layout and requested them for handing over of the areas earmarked for parks, which remained unutilised. Therefore, she requested the respondents to release the land earmarked for parks to an extent of 328.92 sq.mts and another 0.5 cents handed over to the Panchayat based on the undertaking given by her to pay the guideline value for the said lands.



W.P.No.24530 of 2023

The said representation was rejected by the 3rd respondent by the impugned order on the ground that the petitioner already executed a Gift Deed in respect of the OSR lands in favour of the 5th respondent/Local Authority, even prior to Circular issued by the 1st respondent and therefore, the petitioner cannot take advantage of the circular issued later in point of time. Aggrieved by the same, the petitioner is before this Court.

4. The learned counsel appearing for the writ petitioner submitted that the lands especially the OSR lands in respect of the park gifted to Local Authority is kept unutilised. The 5th respondent has not developed any park in the land gifted by the petitioner for the purpose of construction of parks. Since the said land is kept as unutilised one, the same may be given to the petitioner in lieu of the value of the land.

5. The petitioner in support of her argument relies on circular issued by the 1st respondent dated 05.02.2020. As per the said circular in cases where the total extent of the layout is less than 3000 sq.mts., the promoter is entitled to pay the value of the land calculated as per guideline value, instead of gifting the same to the Local Authority.



W.P.No.24530 of 2023

6. It is settled law that an administrative circular issued will have only prospective effect. Further, in the case on hand, the petitioner executed a Gift Deed on 18.06.2019 itself in favour of the 5th respondent and even when the circular was issued by the 1st respondent, the petitioner was not owner of the land and it was gifted in favour of the 5th respondent. In such circumstances, the petitioner is not entitled to take advantage of the circular issued on 05.02.2020 subsequent to the Gift Deed executed by her. Therefore, this Court does not find any reason to interfere with the impugned order passed by the 3rd respondent.

7. Accordingly, the writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

21.08.2023

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
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W.P.No.24530 of 2023

S.SOUNTHAR, J.

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To

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