



W.P.(MD) No.16602 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.08.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P.(MD) No.16602 of 2016

and

W.M.P.(MD) Nos.12089, 12090 of 2016, 15301 of 2017 & 19704 of 2018

AIBEA Nagar (Paravai)

Residents' Welfare Association
represented by its Secretary

K.Alagarsamy

Plot No.396, AIBEA Nagar

B Colony, Paravai, Madurai District

... Petitioner

-vs-

- 1.The Government of Tamil Nadu
represented by
the Principal Secretary to Government
Municipal Administration &
Water Supply Department
Fort St.George, Chennai
- 2.The District Collector
Madurai
- 3.The Assistant Director of Town Panchayats
District Collectorate Complex
Madurai



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4.Paravai Selection Grade Town Panchayat
Paravai, Madurai District
represented by the Executive Officer

5.S.Latha

6.A.I.B.E.A. Nagar (Paravai)
B Colony Residents Welfare
Protection Society
through its General Secretary
A.R.Ravi
7-3-243, AIBEA Nagar
B Colony 4th Street
Paravai, Madurai District
625 402

... Respondents

[R5 is impleaded vide order dated
18.08.2023 passed in W.M.P.(MD) No.
16370 of 2016 and R6 is impleaded vide
order dated 18.08.2023 passed in
W.M.P.(MD) No.3988 of 2021]

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus forbearing the respondents from forming a road through the “PARK SITE” having an extent of 10586 sq.ft., of land situated in old Survey No.139/1 corresponding to UDR Survey No.140/1A forming part of the approved layout plan No.355/1986, dated 13.06.1986 located in AIBEA Nagar, B Colony, Paravai, Madurai North Taluk, Madurai District and gifted to the fourth respondent under a settlement deed dated 28.11.2000, registered in document No.2941 of 2000, on the file of the Joint Sub Registrar, Madurai North and preserve the park site.



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For Petitioner : Mr.N.Dilip Kumar

For Respondents : Mr.P.Thilakkumar
Government Pleader for R1 to R3
Mr.M.Govindan for R4
Mr.N.Mohideen Basha for R5
Mr.G.Prabhu Rajadurai for R6

ORDER

[Order of the Court was made by S.S.SUNDAR, J.]

This writ petition is filed for issuance of a writ of mandamus forbearing the respondents from forming a road through the park site, having an extent of 10586 sq.ft., of land situated in old Survey No.139/1 corresponding to UDR Survey No.140/1A forming part of the approved layout plan No.355/1986, dated 13.06.1986, located in AIBEA Nagar, B-Colony, Paravai, Madurai North Taluk, Madurai District and gifted to the fourth respondent under a settlement deed dated 28.11.2000, registered as document No.2941 of 2000, on the file of the Joint Sub Registrar, Madurai North and to preserve the park site.

2. The petitioner is the residents' welfare association consisting of members, who have purchased plots in the approved layout called AIBEA Nagar. It is the case of the petitioner that the said layout was promoted by the



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Madurai Ramanathapuram District Bank Employees' Union, in the year 1986. It is stated that there are more than 430 residential plots in the layout and at the time of forming the layout, several areas, like, community hall, school, park etc., were specifically earmarked / reserved for the common purpose in the layout. It is also admitted that the entire layout was split in parcels and approval was obtained for every portion of layout. It is also contended by the petitioner that the area, which was reserved for the purpose of park measuring an extent of 10586 sq.ft., was gifted in favour of the fourth respondent / Town Panchayat, under a settlement deed dated 28.11.2000, registered as document No.2941 of 2000, on the file of the Joint Sub Registrar, Madurai North. Stating that some portion of the area, which was reserved as park site, is now sought to be converted as a road to give access to third parties, this writ petition is filed with the above prayer.

3. The facts narrated in the affidavit filed in support of the writ petition are not seriously disputed. Once a particular space in the layout is earmarked for public purpose, namely, park or community hall etc., for the residents of the layout, it is not open to the promoter or the Local Body to convert the same for any other purpose. As it has been repeatedly held by the Honourable Apex Court and this Court in catena of decisions, the area, which



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is earmarked for public purpose, cannot be put to use for any other purpose.

The area earmarked for park and other public purpose will serve as lung space for the residents of the layout. Therefore, if any attempt is made either by the promoter or the Local Body to convert the area earmarked for public purpose, it will be treated as violation or breach of trust as regards the members of the layout or the individual plot owners. The residents, who have purchased plots in the layout, have legitimate expectation that the Local Body is under a legal obligation to maintain the area earmarked for public purpose.

4. In this case, the allegation of the petitioner – Association is that the fourth respondent, who has obtained a gift deed from the promoter of the layout, is now trying to convert the area earmarked for public purpose for some other purpose at the behest and at the request of third parties. This Court finds that the neighbouring residents, who have purchased plots in an unapproved layout, want to have access through the park to reach the public pathway / road, which is provided in the petitioner's layout. This cannot be permitted.

5. One of the legal submissions raised before this Court is that in a private layout, there cannot be a dead end. Referring to the plan, it is seen



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that the road stemmed out of the main road of the petitioner's layout is having length of 70 feet. However, as per Annexure-B of Circular No.14619/88-BCC, dated 27.04.1988, *cu-d-sac* streets / dead end streets are exempted from the mandate that it should connect the next layout. Further, it is pointed out that the Rules framed by the Government of Tamil Nadu in the year 2021 also show that if the length of the layout roads is less than 60 Meters, dead ends are permissible. Therefore, the contentions of the private respondents, who have now been impleaded as party respondents in the proceedings, does not carry water. Hence, in view of the above conclusion we have reached, this Court finds that the petitioner is entitled to the relief prayed for.

6. In the result, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

[S.S.R., J.]

[D.B.C., J.]

18.08.2023

(1/5)

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:

- 1.The Principal Secretary to Government,
Municipal Administration &
Water Supply Department,
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- 3.The Assistant Director of Town Panchayats,
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