



W.P(MD)No.26739 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 08.12.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.26739 of 2023

and

W.M.P.(MD)No.22996 of 2023

The Madurai Central Market Vegetables,
Perishable Commodities Merchant
Co-Ordination Association,
Madurai, Rep. by its Secretary,
A.Balusamy, Dindigul Main Road,
Vilangudi, Madurai District.

... Petitioner

Vs.

1. The Director of Town and Country Planning,
Office of the Directorate Town and Country Planning,
E and C Market Road, Koyambedu,
Chennai – 600 107.
- 2.The Assistant Director / Member Secretary,
Office of the Directorate Town and Country Planning,
Madurai.
- 3.The Commissioner,
Madurai Corporation,
Madurai.
- 4.The Revenue Divisional Officer,
Madurai, Madurai District.



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5.N.Meyyappan

... Respondents

(R5 is suo motu impleaded vide order dated 24.11.2023 in W.P.(MD)No.26739 of 2023 by GRSJ)

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 4th Respondent to restore the patta in the name of the petitioner qua the lands comprised in S.Nos.115/2, 115/3, 116/1A2, 116/1A3, 116/2B2, 115/1B, 116/1A1B, 116/1A1D, 116/2B1B and 116/2B1D Vilangudi Pit-II, Madurai North Taluk, Madurai and consequentially to direct the 1st Respondent to approve the revised plan qua the Paravai Market, Vilangudi, Madurai submitted by the petitioner association vide his application dated 04.08.2023 within the period that may be stipulated by this Court.

For Petitioner : Mr.Ajmal Khan, Senior Counsel,
For M/s.Ajmal Associates.

For Respondents : Mr.M.Prakash,
Addl. Govt. Pleader for R1, R2 & R4.
Mrs.S.Devasena,
Standing Counsel for R3.
Mr.Prasanna Vinoth for R5.



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ORDER

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Heard the learned senior counsel for the writ petitioner, the learned Additional Government Pleader for the respondents 1, 2 and 4, the learned standing counsel for the third respondent and the learned counsel for the fifth respondent.

2.The petitioner association promoted what is known as Madurai Central Market. It was originally located in Paravai and Vilangudi panchyat limits. Now substantial portion of the Central Market has fallen within Madurai Corporation limit. The petitioner was locked in litigation with the fifth respondent. The grievance of the fifth respondent was that the petitioner failed to execute donation deeds conveying the road portions (40 feet road and 60 feet road) shown in the original plan.

3.The the petitioner submitted a revised plan to the first respondent. The revised plan could not be taken up for consideration by the first respondent for the reason that the revenue record came to be mutated in favour of the local body in respect of the OSR portions.



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4.The learned senior counsel for the writ petitioner contended that such mutation of revenue record was not proper because the petitioner had not executed any donation deed in favour of the local body.

5.I cannot subscribe to this contention. When once the layout plan was approved, the promoter can no longer claim any exclusive right or title over the OSR / road / park. Therefore, I will not fault the revenue department for having mutated the revenue record in respect of those earmarked portions. But now the petitioner comes forward to substitute the same. In fact, a larger OSR portion is now offered. Earlier it was only 1.68 acres. Now what is offered is 1.74 acres.

6.The first respondent is therefore directed to consider the revised plan notwithstanding the mutation of record in favour of the local body effected in the meanwhile based on the original plan. The first respondent will issue notice to the following authorities:-

- “(1) The Commissioner, Madurai Corporation.*
- (2) The Revenue Divisional Officer, Madurai.*
- (3) The Executive Officer, Paravai Town Panchayat.”*



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7. Though issuance of notice to the fifth respondent is dispensed with, it is open to the fifth respondent to make a representation to the first respondent.

8. The first respondent will consider and pass order on the petitioner's revised plain within a period of eight weeks from the date of receipt of a copy of this order.

9. I place on record the fact that the petitioner association has at last executed donation deeds conveying road portions (40 feet road and 60 feet road as per the original plan). The first respondent while passing order on the petitioner's revised plan will not touch on this aspect. The road portions (40 feet road and 60 feet road as per the original plan) donated shall remain as it is forever (Document No.6273/2023 and Document No.6101/2023). On the donated road portions (45 feet and 60 feet road as per original plan) there shall not be any encroachment. If there are encroachment as alleged by the sixth respondent, they shall be removed. The local body will have to file a report before the first



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respondent that there are no encroachment on the donated road portions and only thereafter the petitioner's revised plan will be taken up for consideration.

10.This writ petition is disposed of accordingly. No costs.
Consequently, connected miscellaneous petition is closed.

08.12.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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Issue order copy on 12.12.2023.

To:-

1. The Director of Town and Country Planning,
Office of the Directorate Town and Country Planning,
E and C Market Road, Koyambedu,
Chennai – 600 107.
- 2.The Assistant Director / Member Secretary,
Office of the Directorate Town and Country Planning,
Madurai.
- 3.The Revenue Divisional Officer,
Madurai, Madurai District.



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G.R.SWAMINATHAN, J.

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