



W.P.No.2253 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2024

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.2253 of 2024

M.Savithri

...

Petitioner

/vs/

1. The Secretary,
Housing and Urban Development Department,
Fort St. George, Chennai – 600 015.
2. The Director,
Tamil Nadu Town and Country Planning,
Chennai – 600 002.
3. The Member Secretary / Deputy Director,
Coimbatore Local Planning Authority,
Door No.50, FCI Road, Gandhima Nagar,
Ganapathy, Coimbatore – 641 004.
4. The Executive Officer,
Vellalore Town Panchayat,
Vellalore, Coimbatore.

5. N.M.Sukumar

... Respondents

(R5 is impleaded as per order dated 05.02.2024 in W.M.P.No.2885/2024 in W.P.No.2253/2024)



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Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of mandamus to direct the third respondent to declare that the petitioner's land comprised in S.F.No.716/2, 716/3, Sri Ganapathy Garden, Vellalore Village, Bearing Plot No.3 & 4, measuring about 3160 sq.ft. in deemed to be released from the reservation made under Section 38 of Tamil Nadu Town and Country planning Act, 1971 and consequently direct the third respondent to pass appropriate orders for release of petitioner's land comprised in S.F.No.716/2, 716/3, Sri Ganapathy Garden, Vellalore Village, Bearing Plot No.3 & 4, measuring about 3160 sq.ft.

For Petitioner ... Mr.M.R.Dhalapathy Vignesh Kumar

For Respondents ... Mr.P.Ganesan
Additional Govt. Pleader for R1 to R3

Mr.C.Selvaraj for R4

Mr.M.Purshothaman for R5

ORDER

The petitioner has filed this Writ Petition to direct the third respondent to declare that the petitioner's land comprised in S.F.No.716/2, 716/3, Sri Ganapathy Garden, Vellalore Village, Bearing Plot No.3 & 4, measuring



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about 3160 sq.ft. is deemed to have been released from the reservation made under Section 38 of Tamil Nadu Town and Country planning Act, 1971 and to direct the third respondent to pass appropriate orders for release of the petitioner's land.

2. The petitioner who claims to be the absolute owner of the property situated at S.F.No.716/2, 716/3, Sri Ganapathy Garden, Vellalore Village, bearing Plot Nos.3 & 4, measuring about 3160 sq.ft, claims that it is the part of the approved and regularized layout which is being treated as a scheme road by the third respondent.

3. Mr.Dhalapathy Vignesh Kumar, the learned counsel for the petitioner submitted that the petitioner had purchased the above sites from one Gunasekaran by virtue of a sale deed dated 19.01.2018; hence the present writ petition has been filed seeking order to be passed by the third respondent under Section 38 of the Tamil Nadu Town and Country Planning Act, 1971 and thereby to release the petitioner's site from reservation.



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4. Mr.M.Purshothaman, the learned counsel for the fifth respondent, submitted that the petitioner is the wife of one Marudhachalarm who is the present President of Town Panchayat; the husband of the petitioner is actively involved in getting regularization of unapproved lands of the third parties and later purchases the Open Space Reservation (OSR) lands allotted in the layout and claims ownership over the same. The writ petition filed by the petitioner's husband in W.P.No.10946/2023 was also brought to the attention of the Court and submitted that it is *modus operandi* of the petitioner's husband.

5. So far as the sites over which the petitioner claims right is concerned, it is situated in the layout by name "Sri Ganapathy Garden". There is no quarrel on the same. However, the petitioner claims that the site which was purchased by him has been approved and regularized as per the orders of the appropriate authority on 18.11.2022 and 12.12.2022 respectively.

6. From the layout plan submitted by the petitioner it is seen that the layout has been obtained by one P.Velumani and probably the petitioner should have been the second purchaser of the sites involved in Plot Nos.3 and



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4. It is submitted by the first respondent that the petitioner's husband is actively helping one K.V.Jayaraman to get approval of his 41.58 acres of land and for which approval has been given as early as in the year 2018 in Reg.No.DTCP/L/0071199/2017 dated Nil.05.2018.

7. In the said layout certain area is shown for public purposes like roads, etc. As per the layout, the Open Space Reservation land is demarcated especially for public purposes and it has been settled in favour of the Town Panchayat. The sites for which the petitioner claims right is actually the road area involved in the layout approval granted in favour of K.V.Jayaraman for Sri Ganapathy Nagar.

8. If the property now purchased by the petitioner forms part of the public area which was approved in the year 2018, the subsequent layout approval or regularization granted in the name of the petitioner could not have been correct. If the said property still remains as the public area donated to the town planning authorities by the layout owners, the petitioner cannot claim right over the same.



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9. Since lot of disputes arose in respect of the property involved in the layout and the petitioner's husband was alleged to have grabbed the area demarcated for public purpose by creating sale deeds and then file writ petition for seeking directions by suppressing the said facts, an enquiry has been initiated pursuant to the orders of this Court in W.P.No.10946 of 2023 and upheld by the Division Bench of this Court in W.A.No.3085 of 2023. When such is the course of action taken by the appropriate authorities in pursuant to the orders of the Court, the petitioner could very well appear before the said authority and produce all documents in order to arrive at a conclusion whether the property now said to be in the hands of the petitioner continues to remain as house site in Sri Ganapthy Nagar or forms part of the scheme road. If the sites are part of the scheme road, it is needless to state that the petitioner cannot claim any right over the same.

10. The petitioner further submitted that even if the sites form part of the area demarcated for a scheme road, that can be materialised only through acquisition by the third respondent. But the very contention of the learned counsel for the fifth respondent including the third respondent is that the



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original owner of the land himself has donated the area demarcated for the scheme road and hence there cannot be any question of land acquisition at all.

11. All these matters can be resolved only during the enquiry as directed by this Court in W.P.No.10946/2023. The factual aspects cannot be dealt in this writ petition and the rightful direction has already been given to initiate an enquiry. Hence, it will be appropriate for the petitioner to participate in the enquiry and produce the relevant documents and then get appropriate orders. Since this writ petition has been filed in a premature manner, it is liable to be dismissed.

12. In view of the reasons stated above, this Writ Petition is dismissed.

No costs.

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Index: Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

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R.N.MANJULA ,J.

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To:

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