



WEB COPY



W.P.No. 22167 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2024

CORAM

**THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN**

W.P.No.22167 of 2010

and

M.P.Nos.1 & 2 of 2010

M/s.Eveready Industries Limited,

Plot No.1, Industrial Estate,

Guindy, Chennai – 600 032.

Rep. by its Power of Attorney

Khivraj Tech Park Private Limited,

Plot No.1, Industrial Estate,

Guindy, Chennai – 600 032.

.... Petitioner

Vs

1.The Chennai Metropolitan Development Authority,

Rep. by its Member Secretary,

Thalamuthu-Natarajan Malikai,

No.1, Gandhi Irwin Road,

Egmore, Chennai – 600 008.

2.The Corporation of Chennai,

Rep. by its Commissioner,

Rippon Building,

Ponamallee High Road,

Chennai – 600 003.

.... Respondents

**Prayer :** Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent in its Letter dated 08.03.2006 in



W.P.No. 22167 of 2010

No.C3/786/2005 and quash the same and consequently, cancel the Gift Deed dated 16.03.2006 registered as document No.1174 of 2006 before the office of the Sub-Registrar, Adyar, as unnecessary and invalid and consequentially direct the respondents to handover possession of the OSR Land measuring 3415.26 square meters to the petitioner. **(Prayer amended as per order dated 25.09.2024 in W.M.P.No.26795 of 2024 in W.P.No.22167 of 2010)**

For Petitioner : Mr.Vijayanarayan  
Senior Counsel  
for M/s.Fox Mandal & Associates

For R1 : Mr.P.Kumaresan  
Additional Advocate General  
Assisted by Mrs.P.Veena Suresh  
Standing Counsel

For R2 : Mr.G.T.Subramanian

### **ORDER**

This Writ Petition has been filed challenging the communication of the first respondent dated 08.03.2006 and to cancel the gift deed dated 16.03.2006.

2. Heard the learned counsel appearing on either side and perused the materials available on record.



W.P.No. 22167 of 2010

3. Originally, the writ petition was filed seeking a direction directing the second respondent to handover the Open Space Reservation (hereinafter referred to as “OSR”) land, admeasuring 3415.26 sq.mt situated in various survey numbers at IT Park established by the petitioner in Plot No.1, SIDCO Industrial Estate, Guindy, Chennai and also permit the petitioner to continue protecting and maintaining the said OSR land.

4. The petitioner developed an Information Technology Park (hereinafter referred to as 'ITP') in the name and style of 'Olympia Technology Park' situated in Plot No.1 of the Industrial Estate at Guindy, Chennai. Plot No.1, admeasuring 8.39 acres, which was originally promoted by the Government of Tamil Nadu. The layout had been approved by an approval No.LPI/DTP.No.5/71. The petitioner, being the allottee of the land admeasuring 8.39 acres comprised in survey No.41pt, 42, 44pt, 45pt, 46pt, 47pt, 48pt, 49pt, 50pt, 51-56pt, 7pt, 8pt, 9pt of Adyar Village in Plot No.1(SP), Industrial Estate, Guindy, Block V, Alandur, Chennai under the Government of Tamil Nadu, forming part of the above said approved layout. Originally, the said layout allotted in favour of M/s.Union Carbide India Limited, which later became the



W.P.No. 22167 of 2010

petitioner with effect from 24.04.1995. After the allotment, the ownership of the subject property was transferred in favour of the TANSIDCO. Thereafter, on payment of sale consideration, the subject property was transferred in favour of M/s.Union Carbide India Limited. In order to develop the said property, the petitioner had entered into a Joint Development Agreement dated 07.12.2004 for the purpose of establishment and construction of ITP. Thereafter, the petitioner applied for planning permission for construction of the ITP on 10.01.2005. The TANSIDCO also issued a No Objection Certificate for the construction of ITP and informed the petitioner that as per the original layout, the OSR land had been allocated and there would be no further OSR land for subsequent development by the petitioner.

5. However, the first respondent issued a communication dated 08.03.2006, thereby calling upon the petitioner to handover the OSR land to an extent of 3415.26 sq.mts, as shown in the plan, by way of a registered gift deed. Though the petitioner was clarified by TANSIDCO with regard to execution of the gift deed in respect of the OSR, the petitioner has no other option to execute the gift deed in order to get planning approval and executed a gift deed dated 16.03.2006, thereby



W.P.No. 22167 of 2010

gifting away the OSR land in favour of the first respondent. Thereafter, the petitioner was accorded approval vide Planning Permit No.C/PP/MSB & IT/53A to H/2006 dated 29.11.2006. The petitioner had developed ITP with all modern construction techniques and infrastructure development methods in par with the best standards in the world. It is one of the largest ITP in India and it has attracted major green global players as its tenants.

6. While being so, the Government of Tamil Nadu issued G.O.Ms.No.15 dated 22.05.2003 and G.O.Ms.No.18, dated 05.11.2004 and accordingly, the OSR land can be maintained by the ITP itself. In view of the immense importance of IT companies for the State in terms of generation employment and revenue. That apart, in order to maintain a homogeneous and harmonious ambience in which the activities of the industry can be carried out efficiently and to interact foreign clientèle. Even after execution of the gift deed, the first respondent failed to maintain the same in a proper manner and it is lying vacant, without any development.



W.P.No. 22167 of 2010

7. A perusal of the counter filed by the first respondent and the submission made by the Additional Advocate General reveals that the petitioner was granted planning permission for Multi Storied Building consisting of lower basement floor + upper basement floor + lower stilt + upper stilt + 8 floors IT building and proposed construction of ground + 3 floors service blocks over the existing basement floor in the subject property. As per the condition, the petitioner had executed a gift deed dated 16.03.2006 in respect of the OSR land registered vide document No.1174 of 2006. Subsequently, the petitioner also had executed an Addendum vide document No.1519 of 2006 dated 05.05.2006. On the date of execution of gift deed, the possession of the OSR area has been taken custody by the first respondent and by a proceedings dated 29.11.2006, the petitioner was granted planning permission.

8. The OSR area for each industrial plot has become mandatory for all Multi Storied Buildings under the provisions of the Act. The planning permission for MSB cannot be permitted without 10% of OSR area irrespective of the layout being industrial or residential layouts, if the total extent of the site is more than 10000 sq.mt. Admittedly, the land, which was subjected for planning permission,



W.P.No. 22167 of 2010

admeasuring 8.39 acres, i.e., more than 10000 sq.mt. Therefore, it

requires 10% of OSR area for planning permission to construct the MSB.

Further, G.O.Ms.No.15, dated 22.05.2003 does not confer any right or title over the OSR land in favour of the IT companies. It says that the request of the IT companies for OSR area can be considered favourably. Therefore, it does not confer any absolute right or possession of the reserved land. Further, the instrument of gift deed which was already registered in favour of the first respondent cannot be cancelled unless it is void. The said ground can be taken only before the Civil Court. Therefore, the cancellation of the gift deed does not arise before this Court.

9. In view of the above, this Court finds no infirmity or illegality in the communication of the first respondent dated 08.03.2006 and the gift deed executed by the petitioner dated 16.03.2006 in favour of the first respondent. Thus, the writ petition is devoid of merits and is liable to be dismissed. However, the petitioner is at liberty to seek permission to maintain the OSR land. If any request made by the petitioner, the first respondent is directed to consider the said request on condition to use the OSR area for all general public.



W.P.No. 22167 of 2010

10. In the result, this writ petition stands dismissed.

Consequently, connected miscellaneous petitions are closed. No costs.

25.09.2024  
(2/2)

Internet : Yes/No  
Index: Yes/No  
Speaking/Non-speaking order  
Neutral Citation : Yes/No  
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To

1.The Member Secretary,  
Chennai Metropolitan Development Authority,  
Thalamuthu-Natarajan Malikai,  
No.1, Gandhi Irwin Road,  
Egmore, Chennai – 600 008.

2.The Commissioner,  
Corporation of Chennai,  
Rippon Building,  
Ponamallee High Road,  
Chennai – 600 003.



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W.P.No. 22167 of 2010

**G.K.ILANTHIRAIYAN, J.**

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W.P.No.22167 of 2010

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