



W.P.No.16472 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2024

CORAM

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

W.P.No.16472 of 2018

and

W.M.P.No.19688 of 2018

V.Mayilsamy

.... Petitioner

Vs

The Commissioner,
Dharapuram Municipality,
Dharapuram,
Tiruppur District.

.... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, forbearing the respondent not to interfere with the peaceful possession and enjoyment of property in S.F.No.389/1, situated at N.M.P.Nagar, Dharapuram, Tiruppur District.

For Petitioner : Mr.K.Sudhakar
For Respondent : Mr.P.Srinivas
Standing Counsel

ORDER

This Writ Petition has been filed forbearing the respondent not to interfere with the peaceful possession and enjoyment of property comprised in S.F.No.389/1, situated at N.M.P.Nagar, Dharapuram, Tiruppur District.



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

3. The petitioner owned a property comprised in S.F.No.389/1, Chitravuthanpalayam Village, Dharapuram, Tiruppur District. In order to develop the same, the petitioner applied for layout approval under the Town and Country Planning Act 1971. By a proceedings dated 17.02.1995, the said land was granted layout approval for the extent of 5.32 acres, in which 10% of the area was earmarked as children park or children's play spaces to an extent of 473.81 sq.mts upon from the road. The area, which was meant for road, was already gifted in favour of the respondent. Insofar as the area, which was earmarked for children play space, is concerned, it is not handed over to the respondent for maintenance. Therefore, the respondent directed the petitioner to hand over the land, which was originally earmarked for children's play space area, as per the layout approval to an extent of 473.81 sq.mts.

4. The learned counsel appearing for the petitioner would submit that after a period of more than 25 years, the respondent directed the petitioner to hand over the subject land which was originally earmarked for children's play space.

5. As per Section 38 of the Town and Country Planning Act



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1971, the purposes for which the subject land was earmarked has been lapsed. The provision under Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, is applicable only for Regional Plan, Master Plan, [Detailed Development Plan, New Town Development Plan or a Land Pooling Area Development Scheme]. It is not applicable to the individual layout approval. Though the petitioner need not gifted the subject land, which was earmarked for children's play space, he cannot use the said land for any other purpose. The respondent is the custodian of the said land and it should be handed over to the possession of the respondent.

5. In view of the above, the prayer sought for in this writ petition cannot be considered. Thus, the writ petition is devoid of merits and it is liable to be dismissed. Accordingly, this writ petition stands dismissed. Consequently, connected miscellaneous petition is closed.

No costs.

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Internet : Yes
Index : Yes/No
Neutral Citation : Yes/No
Lpp

G.K.ILANTHIRAIYAN, J.

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To

The Commissioner,
Dharapuram Municipality,
Dharapuram,
Tiruppur District.

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