



W.P.No.18109 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2024

CORAM

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

W.P.No.18109 of 2020

and

W.M.P.No.22494 of 2020

1.S.Murali
2.Geetha
3.K. Chandran
4.R. Sasikala
5.G. Ranganathan
6.Velu
7.P. Chinnathambi

.... Petitioners

Vs

1.The Deputy Director of Town and Country Planning,
No 239, Phase 2, Sathivacheri,
Vellore - 632 009,
Vellore District.

2.Member Secretary
Directorate of Town and Country Planning,
Hosur New Town Development Authority,
Hosur,
Krishnagiri District.

3.The Commissioner,
Hosur Municipal Corporation,
Hosur,
Krishnagiri District.

.... Respondents



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Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, directing the 3rd respondent to conduct enquiry for passing orders pertaining to regularisation of petitioners plots Nos. 4 ,5, 9, 11, 12, 13, 14 and 16 in survey No.745/1A1A, New survey No.745/7 of Chennathoor Village, Hosur Taluk, Krishnagiri District, as per the G.O.(Ms) No.78, dated 04.05.2017 and G.O.(MS) No.172 dated 13.10.2017.

For Petitioner : Mr.S.Gunaseelan

For R1 & R2 : Mr.V.Manoharan
Additional Government Pleader

For R2 : Mr.N.Subbarayalu

ORDER

This Writ Petition has been filed for a direction, directing the third respondent to conduct enquiry and pass orders pertaining to the regularisation of the petitioners respective plots comprised in Survey No.745/1A1A, New Survey No.745/7 of Chennathoor Village, Hosur Taluk, Krishnagiri District as per the G.O.(Ms) No.78, dated 04.05.2017 and G.O.(Ms) No.172 dated 13.10.20217.

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



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3. The petitioners had purchased their respective house plots from three vendors. The vendors owned the land comprised in Survey Nos.743, 744 and 745 situated at Chennathoor Village, Hosur Taluk, Krishnagiri District and obtained patta. The said land was subjected for layout to sub-divide as house plots and it was approved in Approval No.61/82 by the first respondent. As per the approved layout, the land, comprised in Survey No.745/1A1A, New Survey No.745/7 situated at Chennathoor Village, Hosur Taluk, Krishnagiri District, admeasuring 1.25 acres, was earmarked and reserved for school and playground.

4. Pursuant to the approval, the open space reservation was gifted in favour of the third respondent. However, the place which was earmarked for school and playground area, need not gifted in favour of the third respondent. Further, though the property stands in the name of the developer, the third respondent is the custodian of the said property as per the layout approval. While being so, the vendors had sub-divided the land which was originally earmarked for school and playground into house plots, subsequently, sold out the same to the petitioners and others. Therefore, the petitioners submitted an application to regularise their respective plots by citing the Government Order in G.O.No.78, dated



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04.05.2017 and G.O.No.172, dated 03.10.2017.

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5. The learned counsel appearing for the third respondent would submit that the petitioners cannot take any advantage, merely the subject land was not handed over to the third respondent. Once the subject land was earmarked for school and playground, it cannot be used for any other purpose. Further, it cannot be converted as house plots or any other purpose. Even it is not handed over to the local body. The third respondent is the custodian of the subject land, which was earmarked for school and playground, as per the original layout. It has to be protected by the third respondent for public purpose. That apart, the Government orders are applicable only those who had purchased house plots in the unapproved layout. In the case hand, admittedly, the subject land was earmarked for school and playground. Therefore, it cannot be converted into house plots at any cause.

6. The learned counsel for the petitioner relied upon Section 38 of the Tamil Nadu Town and Country Planning Act, 1971, in which any land reserved, allotted or designated for any purpose specified in a Regional Plan, Master Plan, [Detailed Development Plan, New Town



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Development Plan or a Land Pooling Area Development Scheme] is not acquired by agreement, such land shall be deemed to be released from such reservation, allotment or designation. As per the layout of the year 1982, the subject land was earmarked for school and playground. However, even today, no school has been constructed and it has not been used for play ground. Therefore, the earmarked for school and playground as per the layout approval has been lapsed. Hence, they are entitled for regularisation of their respective plots.

7. 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. The vendors of the petitioner developed their particular land admeasuring 7.33 acres by obtaining layout approval in the year 1982 in Ma.Pa.Va(Ve.tha.) No.61/82, in which the subject land was earmarked for school and playground. Therefore the provision is nothing to do with individual layout No.61/82. Further, it is also clarified that the third respondent is not the owner of the land which was earmarked for school and playground. The third respondent is only the



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custodian of the subject property for the purpose of maintaining the subject land and to put use for the purpose which was originally earmarked for approval of original inhabitation.

8. In view of the above, the direction sought for in this writ petition cannot be considered. Thus, the writ petition lacks merits and it is liable to be dismissed. Accordingly, this writ petition stands dismissed. Consequently, connected miscellaneous petition is closed.
No costs.

26.09.2024

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

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