



W.P.No.25025 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2024

CORAM:

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

W.P.No.25025 of 2024

O.Obuliraj

... Petitioner

-Vs-

1. The Regional Director,
Town And Country Planning,
No.6, Sannathi Street,
Subramania Nagar,
Suramangalam, Salem-636 005.
2. The Block Development Officer,
Katheri Village Panchayat,
Sankari Panchayat Union,
Sankari Taluk, Salem District.
3. The Administrative Officer Cum
Panchayat President,
Katheri Village,
Katheri Vattaram, Katheri Panchayat,
Sankari Taluk, Salem District.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 3rd respondent dated 16.09.2023 and quash same and consequentially issue direction directing the 3rd respondent to grant building plan permission by considering



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petitioner application dated 25.07.2023.

For Petitioner : Mr.M.Marudhachala Murthy
for Mr.J.Manikandan
For R1 : Mr.S.Jayachandran
Government Advocate
For R2 and R3 : Mr.P.Sathish
Additional Government Pleader

ORDER

This writ petition has been filed challenging the order passed by the third respondent dated 16.09.2023, thereby dismissed the application seeking building planning permission and approval, on the ground that the said area was originally earmarked for children play area as per the DTCP approval.

2. Heard both sides and perused the materials available on record.

3. The properties comprised in S.Nos.640/2, 640/4, 641/1, 641/2, 641/3 and 642/3 to an extent of 10.82 acres was originally owned by trust viz., Nataraja Dhanalakshmi Trust. The portion of the property in the S.No.641/1 to an extent of 10,800 sq.ft was sold out in favour of one Marimuthu, Selvaraj and Jagannathan by the registered sale deed dated



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25.05.1995 vide Document No.1489 of 1995. Subsequently, the said property was purchased by one Parvatham by the registered Document No.5639 of 2011 on 19.08.2011. Thereafter, she sold the said property through her Power of Attorney in favour of one Varudharajan by the registered sale deed dated 13.09.2012 vide Document No.750 of 2022, in which half of the portion was purchased by the petitioner by the registered sale deed dated 11.07.2013 vide Document No.5318 of 2013. Thereafter, the petitioner applied for building planning permission. However, it was pending without consideration. The petitioner was informed that the said land was earmarked for children play area. Therefore, the petitioner submitted an application under the Right to Information Act before the Public Information Officer about the layout approval and also for the land which was originally earmarked for children play area insofar as the subject property. The request made by the petitioner was rejected on the ground that the subject land was originally earmarked for children play area as per the layout approval vide file number 1759 of 1985 and layout map number M.P/V (se.Tha) No.24/85. Hence, this writ petition.



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4. The learned counsel for the petitioner would submit that the gift deed was executed for the approved layout by the gift deed dated 31.07.2007 vide Document No.3126 of 2007 in order to form road. However, it does not include the subject property.

5. The Hon'ble Supreme Court of India and this Court repeatedly held that the land which was originally earmarked for public use as park, play ground and children play area cannot be sold out, though it was gifted in favour of municipality/Corporation. The original developer may be the custodian of the said property. He cannot sell the property to a third party, which was originally earmarked for common purpose as per the layout plan.

6. In view of the above, this Court finds no infirmity or illegality in the order passed by the third respondent and the writ petition is devoid of merits and is liable to be dismissed.



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7. Accordingly, this writ petition stands dismissed. No costs.

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Internet: Yes

Index : Yes/No

Neutral Citation: Yes/No

Speaking/Non Speaking order
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G.K.ILANTHIRAIYAN. J.

mn

To

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