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W.P.No.18555 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2024

CORAM:

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

W.P.No.18555 of 2020

and

W.M.P.No.23002 of 2020

R.Sekar

..Petitioner

-Vs-

- 1.The District Collector,
Cuddalore District,
Cuddalore.
- 2.The Assistant Director of Panchayat,
Cuddalore District,
Cuddalore.
- 3.The Block Development Officer,
Kurunjipadi Block,
Kurunjipadi.
- 4.The Vadakuthu Panchayat,
Rep. by its executive Authority/President
Anjalai Kupusamy,
Vadkuthu Panchayat Union,
Kurunjipadi Taluk,
Cuddalore District.

...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus forbearing the respondents to put up any type of Construction over the property comprised in old Survey No.510/2 of Vadakuthu Village, Kurunjipadi Taluk, Cuddalore



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district, which is exclusively reserves for Public Purpose.

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For Petitioner	: Ms.D.Shobana
For R1 & R2	: Mr.V.Manoharan Additional Government Pleader
For R3	: Mr.S.Sidhartha Vishnu for M/s.Krishna Law Associates.

ORDER

This Writ Petition has been filed forbearing the respondents to put up any type of construction over the property comprised in old Survey No.510/2 of Vadakuthu Village, Kurunjipadi Taluk, Cuddalore District.

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

3. The petitioner is one of the resident in Vadakuthu Village. During the year 1996, nearly 20 acres of land in Vadakuthu Village comprised in Survey No.510/2 were formed as a layout and divided into plots and the same were duly approved by the DTCP. Now, the area is called as Anna Gramum and Gandhi Gramum. The house plots were purchased by various persons and constructed their houses. As per the layout, 60 cents were originally earmarked for the purpose of park. From the year 1996 onwards, the said land are using by the general public as a park. Except the said place, no



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other place for entertainment to the residents of the Anna Gramum and Gandhi Gramum.

4. While being so, the fourth respondent dumped the garbage in the said area and as such one of the resident lodged a complaint before the first respondent. After intervention of the first respondent, the fourth respondent removed the garbage and make it use of public as a park. Some portion of the land was allowed to construct ration shop and water tank for the use of general public. Now the respondents are attempting to construct the shops for the mutton and fish merchants and also to construct a weekly market in the said park place.

5. A perusal of the counter filed by the third respondent and the submissions made by the learned counsel for the third respondent reveals that the market/shops in and around the said locality were re-located during the construction of Highways by the National Highways Department during the year 2018, which has caused great hardship to the general public for purchase of provisions and groceries. Therefore, the third respondent intended to construct the weekly market at Vadakuthu Village. Subsequently, the said land admeasuring 0.25 cents comprised in Survey No.566/15, old No.510/2, situated



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at Vadakuthu Village was earmarked as suitable place for market by the Assistant Engineer by its communication dated 12.06.2020. The said land was originally earmarked as park adjoining to Gandhi Gramam layout. The layout was approved by the authorities.

6. As per the said layout, 49 acres of land was gifted to the fourth respondent by way of a Gift Deed dated 27.08.1997 registered vide Document No.1611 of 1997 and a Gift Deed dated 08.04.2003 registered vide Document No.845 of 2003 for the purpose of road and park. After laying the road, the remaining land admeasuring 60 cents is now lying vacant. In fact, the said land was used for the purpose of dumping garbage for many long years. Thereafter, the fourth respondent cleared the said garbage in order to safeguard the health and hygiene of the people in and around the said locality.

7. That apart, adjacent to the village, there is only one park and used by the general public. Further, under Mahatma Gandhi National Rural Employment Scheme, the respondents have undertaken the construction of weekly market to the value of Rs.41.03 lakhs in the land comprised in Survey No.567/20, Vadakuthu Village to an extent of 25 cents. Further, in the said locality, there are 5000 people are residing who have to travel about 8 kms to



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the market. Now, the said place is identified for construction of market. The apprehension of the petitioner is that there would be no health hazards while running chicken, mutton or fish market in the area.

8. Admittedly, the subject land was gifted as per the layout vide document Nos.1611 of 1997 and 845 of 2003, for laying road in which 60 cents of the land is lying vacant and used by the general public of the village as park. In fact, some portion of the property was already acquired and constructed water tank and also ration shop. Now in the remaining land admeasuring 25 cents, the third respondent intended to construct the market to the general public. Further, the said land was used by the fourth respondent by dumping garbage. After a complaint lodged by one of the residents, the first respondent removed the garbage for the welfare of the residents of the village. Thereafter, the residents of the village are using the said area as a park. Now, they intended to construct the market for commercial purpose. The land which was originally earmarked as park cannot be used for any other purpose. Now, the third and fourth respondents are intended to construct the commercial complex for market purpose. Therefore, it is not permissible in law.

9. In view of the above, the respondents are directed not to put up



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any type of construction in the property comprised in old Survey No.510/2 of
Vadakuthu Village, Kurunjipadi Taluk, Cuddalore District except put up a
park.

10. With the above direction, this writ petition is allowed.

Consequently, connected miscellaneous petition is closed. No costs.

04.09.2024

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

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To

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