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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2024

CORAM

**THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN**

**W.P.No. 36581 of 2024**

**And**

**W.M.P.No. 39443 of 2024**

Mrs.K.Jeevarathinam

... Petitioner

**..Vs..**

1. The Commissioner  
Poonamallee Municipality  
Poonamallee  
Chennai – 600 056.

2. The Municipal Engineer  
Poonamallee Municipality  
Poonamallee  
Chennai – 600 056.

... Respondents

**PRAYER:** Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus directing the respondents to preserve the road portion in all 4 sides around the proposed park in communal and Recreational area of Rukmani Nagar Layout comprised in S.No. 299, Poonamallee, Chennai -600 056 as earmarked in the layout plan by considering the representation of the petitioner dated 05.09.2024.

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For Petitioner

:: Mr. M.S.Govindarajan

For Respondents

:: Mr. T.Seenivasan  
Special Government Pleader

### **ORDER**

The Writ Petition has been filed in the nature of a Mandamus seeking a direction to the respondents, particularly, the Commissioner, Poonamallee Municipality, Poonamallee, Chennai, to preserve the road portion in all 4 sides around the proposed park in communal and Recreational area of Rukmani Nagar Layout comprised in S.No. 299, Poonamallee, Chennai -600 056 as earmarked in the layout plan. The petitioner had given a representation on 05.09.2024.

2. In the affidavit filed in support of the Writ Petition, it had been contended that the petitioner has been residing at Door No.10, Palani Nagar, Poonamallee, Chennai – 600 056 along with his family. He owned a property in S.No. 306. The property had been regularised by an order dated 29.11.2019. The promoter of Rukmani Nagar Layout owned 6.70 acres and subdivided the same into 66 approved plots in the year 1976. He had also reserved certain areas as Open Space and Communal Recreational Space. It had been stated that however, the promoter had not executed any gift deed in favour of



Poonamallee Municipality.

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3. The petitioner claims that he has no reservations about the development of the proposed park but however, it had been stated that all the four roads around the proposed park should be maintained and that the park should be within that enclosure.

4. On the side of the respondents, instructions had been obtained and it had been argued by the learned Special Government Pleader that the residents of the area have been filing Writ Petitions or filing civil suits one way or the other to prevent the development of the park.

5. One of the Writ Petition filed was W.P.No. 20452 of 2016 filed by one V.P.Srinivasan, who claimed that the eastern side 30 feet road must be maintained. It was observed by a learned Single Judge that there was no road at all and that the road, as pointed out by the writ petitioner therein was only an extension of the park. Therefore, the learned Single Judge, who had disposed of the Writ Petition, observing that it involved facts to be examined, had granted permission for institution of a civil suit.



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6. Accordingly, V.P.Srinivasan, has filed O.S.No. 173 of 2021 before the Principal District Munsif Court, Poonamallee. By an order dated 21.10.2024 in I.A.No. 350 of 2021, the learned Principal District Munsif had dismissed the application seeking temporary injunction by returning a factual observation that there were no roads abutting the park and they were actually extensions of the park.

7. Placing his arguments on the aforementioned litigations, Mr.T.Seenivasan, learned Special Government Pleader contended that the object of the residents was to some how encroach upon the park.

8. It was contended that the compound wall built surrounding the park had already been slowly demolished with attempt to encroach into the area of the park. With respect to the claim that the gift deed had not been executed by the promoter, the original gift deed had been produced and it is seen from the records that the gift deed had actually been executed on 27.11.1987 by A.Dhanraj, son of Lakshmikuth Ammal, represented by power of attorney agent P.C.Ravindran, son of K.V.Narayanan Nair, who had been termed as Donor and the Poonamallee Town Panchayat, Poonamallee Executive Officer, A.Gopala Krishnan, who was termed as Donee. Thus, there was lawful sanction for the respondents to utilise the said area gifted



by the original promoter as a park.

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9. Though the learned counsel for the petitioner proclaims innocence that the petitioner had not initiated any earlier litigation it is clear that the petitioner has been now used as a scapegoat to institute this particular litigation. A Mandamus cannot be issued as sought for by the petitioner.

10. The respondents have every right to form a park in accordance with the gift deed executed by the promoter and the petitioner has no right to claim that a road should be maintained since what the petitioner claims as a road is actually an extension of the park and what the petitioner is seeking is to encroach on the area of the park. The claim of the petitioner cannot be considered. The Writ Petition stands dismissed. Consequently, connected Miscellaneous Petition stands closed. No order as to costs.

10.12.2024

vsg

Index: Yes/No

Internet: Yes/No

Speaking / Non Speaking Order

To

1. The Commissioner  
Poonamallee Municipality  
Poonamallee  
Chennai – 600 056.
2. The Municipal Engineer



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Poonamallee Municipality  
Poonamallee  
Chennai – 600 056.

**C.V.KARTHIKEYAN, J.,**

*vsg*

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