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W.P.No.31918 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2024

CORAM:

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

W.P.No.31918 of 2018
and W.M.P.No.37154 of 2018

1. B.Kuppusamy
2. B.Ravikumar

... Petitioners

-Vs-

The Commissioner,
Anakaputhur Municipality,
Anakaputhur,
Chennai – 600 070.

... Respondent

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 comprised in Na.Ka.No.606/2018/F1, dated 28.09.2018 on the file of the respondent, quash the same and consequently declare that the land in survey No.69/1B1, 1B2 is not children's play area as claimed by the respondent in layout approval No.631975.

For Petitioners : Mr.R.Bharanidharan
For Respondent : Mr.P.Srinivas
Standing Counsel

ORDER

This writ petition has been filed challenging the order passed by the respondent dated 28.09.2018, thereby directed the petitioners to keep the subject property as children's play area as per the layout approval No.63/1975.



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

3. The petitioners' grand father owned land ad-measuring 1.08 acres comprised in S.No.69 situated at Anakaputhur Village, Pallavaram Taluk and the same was purchased by the registered Document No.1641 of 1905. The petitioner's grand father had three sons. After his demise, the three sons had partitioned the said property, in which the petitioner's father A.E.Balasubramaniam was allotted with the land ad-measuring 6790 sq.ft comprised in S.No.69/1B. Therefore, their father had executed a settlement deed in favour of the petitioners registered vide Document Nos.412 and 413 of 2016 to an extent of 3401 sq.ft and 3402 sq.ft respectively. Accordingly, they were issued with patta in Patta Nos.8548 and 8547. After issuance of patta, the petitioners had also paid the property tax for the vacant site to the respondent's municipality. Already they had constructed a theatre and the petitioners' father and his brothers were issued with C form license in the name of "Arunmathi Theatre".

4. While being so, now the respondent issued the impugned order dated



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28.09.2018 stating that the lands comprised in S.Nos.74/2B, 2A part, 74/2B/2B,

75/3, 4 and 69 were already laid out as per the approval No.63/1975, in which there is a land meant for children's play area. As directed by the Hon'ble Division Bench of this Court in W.A.No.156 of 2000 dated 12.04.2007, the land meant for public purpose as per the layout has to be utilized for public purposes, otherwise, the respective land owners are directed to keep the common area for the purpose in which the layout was approved. Therefore, it was directed to the petitioners to maintain the land which was allotted for children's play area as per the layout plan to be maintained as children's play area.

5. A perusal of the counter filed by the respondent revealed that in the subject land, already cinema theatre was constructed without any planning and building permission from the respondent. Further, the said area is earmarked as children's play area as per the layout plan. However, there is absolutely no piece of evidence to show that the subject land in which the petitioners are in possession is earmarked for children's play area.

6. The respondent produced only approved layout plan in which some area was earmarked for children's play area. However, it does not have any measurement and survey number. Further, there is no proof to show that the



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petitioners' father and their grand father obtained layout approval from the respondent in Approval No.63/1975. That apart, after settlement deed executed in their favour, they were granted patta and they are in possession and enjoyment of the property comprised in S.No.69/1B. They had also paid the property tax for the vacant site. Further, no general public who purchased their respective plots as per the alleged layout complained about the subject property that the property is kept vacant without using for the purpose which was meant as per the approved layout.

7. The respondent all of a sudden that too as directed by the Hon'ble Division Bench of this Court, directed the petitioners to maintain the children's play area in the subject property. Therefore, the impugned order cannot be sustained and is liable to be quashed.

8. Accordingly, the impugned order in Na.Ka.No.606/2018/F1, dated 28.09.2018 on the file of the respondent, is hereby quashed. The respondent is at liberty to proceed in accordance with law, if any illegal construction is put up by the petitioners in the subject property without any planning and building permission from the respondent.



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WEB COPY 9. Accordingly, this writ petition stands allowed. Consequently, connected Miscellaneous petition is closed. No costs.

14.08.2024

Internet: Yes

Index : Yes/No

Neutral Citation: Yes/No

Speaking/Non Speaking order

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G.K.ILANTHIRAIYAN. J.

mn

To

The Commissioner,
Anakaputhur Municipality,
Anakaputhur,
Chennai – 600 070.

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