



W.P(MD)No.10139 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.02.2024

CORAM :

**THE HONOURABLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
and
THE HONOURABLE MR.JUSTICE P.DHANABAL**

W.P.(MD)No.10139 of 2020

and

W.M.P.(MD)No.4637 of 2021

M.Saleem

... Petitioner

Vs.

1.The Directorate of Town and Country Planning,
Head Office No.807,
Anna Salai,
Chennai – 600 002.

2.The Deputy Director of Town and Country,
Planning Tirunelveli Region,
Xavier Colony,
South Bye-Pass Road,
Palayankottai,
Tirunelveli – 2.

3.The District Collector,
Tenkasi District,
Tenkasi – 627 811.



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4.The Commissioner,
Tenkasi Municipality,
Tenkasi – 627 811.

5.The Revenue Divisional Officer,
Tenkasi – 627 811,
Tenkasi District.

6.The Tahsildar,
Tenkasi Taluka,
Tenkasi – 627 811,
Tenkasi District.

7.J.Selwin Jeyaraj

8.A.Jeba Rathinam

9.J.Dennis Jeskar

10.A.Paul Singh Daniel

11.N.Christhu Doss Gnanaraj

12.A.Jeya Prakash

..

Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the sixth respondent to record the name of the fourth respondent for the properties in the town survey number 64 Block 33 Ward B, an extent of 18 cents in the revenue records by considering the communication of the fourth respondent dated 25.09.2019 consequently directing the fourth



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respondent to develop the said place as public park within the period stipulated by this Court.

For Petitioner : Mr.A.Haja Mohideen

For Respondents : Mr.P.Thilak Kumar – for R1 to R3, R5 & R6

Additional Government Pleader

Mr.P.Aathimoola Pandian – for R4

Mr.H.Arumugam – for R7 & R8

Mr.P.P.Alwin Balan – for R9 & R11

ORDER

[Order of the Court was made by The Hon'ble CHIEF JUSTICE]

The only relief sought is that the said property may be recorded in name R4 Municipality.

2.According to the learned Counsel for the petitioner, the land in question is reserved for open space and as such the name of the municipality be recorded.

3.If in a layout or a development plan, the particular property is reserved for open space, it cannot be used for any other purpose and it has to be kept open. However, unless the said property is gifted or acquired, the ownership of the person would not be divested. If the



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open space is of a layout then it has to be kept for the benefit of the layout holders.

4.It is the contention of the learned Counsel for the seventh respondent that the subject land is reserved for public purpose and it is not an open space or a park or a playground. The resolution is passed by the seventh respondent to construct a Home for mentally disabled persons.

5.According to the learned Counsel for the fourth respondent, the 18 cents of the land in the layout is meant for public purpose.

6.In case the land in the layout is reserved as an open space / playground / park, then it can never be used for any other purposes. The area reserved for public purpose can be used for public purpose, however, the construction over it can be made only after obtaining permission from the municipal authorities / municipal body. Without the permission of the municipal body, no construction can be carried out even on a plot reserved for public purpose.



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7.It is admitted by the learned Counsel for the municipality, so also the learned Counsel for the petitioner that the said subject property is vacant today.

8.It is made clear that no construction activity shall be carried out in the said land without obtaining proper permission from the municipal authorities in accordance with law.

9.With the aforesaid observation, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

[P.D.B., J.]

[S.V.G., C.J.]

29.02.2024

Index : Yes / No
Neutral Citation : Yes / No
MR



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THE HONOURABLE CHIEF JUSTICE
and
P.DHANABAL, J.

MR

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