



WP (MD) No.15735 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

**RESERVED ON: 20.06.2023
PRONOUNCED ON: 30 .01.2024**

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.15735 of 2014

The President,
P.Ramachandrapuam Panchayat,
P.Ramachandrapuram PO,
Srivilliputhur (via),
Virudhunagar District.

... Petitioner

Vs

- 1.The Registrar of Co-Operative Societies
(Housing),
Tamil Nadu Housing Board Buildings,
II Floor Annexe,
No.483, Anna Salai Nandanam,
Chennai – 600 035.
- 2.The Regional Deputy Registrar (Housing),
Virudhunagar Region,
Virudhunagar.
- 3.The Deputy Registrar of Co-Operative Societies
(Housing), Virudhunagar Region,
Virudhunagar.
- 4.The Co-Operative Sub Registrar (Office),
Liquidator,
Office of the Deputy Registrar (Housing),
Virudhunagar.



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5.The President / Secretary,
M.D.A.H.S.D,
108, Srivilliputhur Taluk,
Co-Operative Housing Society Limited,
Srivilliputhur.

6.The Director of Town Planning,
Directorate of Town Planning
II, III and IV Floor, C and E Market Road,
Koyambedu, Chennai – 107.

[R6 is *suo motu* impleaded vide court
order dated 19.04.2023]

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus by calling for the records of the 2nd respondent relating to the order passed in Na.Ka.No.1953/13 Saba, dated 26.11.2013 and quash the same and direct the respondents 2 to 4 to handover the vacant site in S.No.112/3A, 3 and 4 of Inam Regunathapuram Village on the southern side of Teachers' Quarters, which was reserved for public purpose to develop as Park for the benefit of the public to the petitioner.

For petitioner : Mr.S.Kadarkarai
For Respondent : Mr.S.Shaji Bino,
Nos.1 to 4 Special Government Pleader
For Respondent : Mr.R.Saravanan
No.5



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ORDER

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The President of P.Ramachandrapuram Panchayat has filed this writ petition in the year 2014 as against the orders of the 2nd respondent / the Regional Deputy Registrar (Housing), Virudhunagar dated 26.11.2013. The petitioner has also sought for a consequential direction to direct the respondents 2 to 4 to hand over the vacant site in S.No.112/3A, 3 and 4 of Inam Regunathapuram Village.

2.The learned Counsel for the petitioner submits that the based on the request of the members of the Q-614 P.Ramachandrapuram Rural Co-Operative Housing Society the Government has acquired land to an extent of 1.86 acres in S.Nos.112/3A, 3 and 4 of Inam Regunathapuram Village. Thereafter the Society has formed a layout after obtaining planning permission from the Director of Town Planning in the year 1954. The eastern side of the layout was reserved for public purposes as a park for the benefit of the members of the society. The said land was not entrusted with the petitioner. The petitioner panchayat has passed a resolution on 10.07.2012 to establish a park and also made a request to the 5th respondent society to hand over the lands and the same was not handed over and therefore, the



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petitioner has filed a writ petition before this Court in WP(MD)No.14723 of 2013 for the relief of mandamus and this Court vide order dated 03.09.2013 has directed the 2nd respondent to consider the case of the petitioner. Accordingly the 2nd respondent has passed this impugned order rejecting the request of this petitioner that as per the revised plan of the year 1959 this land is reserved, but not for the park.

3.The learned Counsel for the petitioner further submits that in the approved original layout of the year 1954, this portion of the land has been reserved for the purpose of park. There was a revision of plan in the year 1959. Even in the revised plan, it is mentioned as reserved. He further submits that once the land is described as reserved in the approved layout, the 4th respondent society is not having any right over the said land and the local body is entitled to deal with the lands for the benefits of the villagers.

4.According to the learned Counsel there is no public place available in the village as park for the benefit of the villagers and the members of the erstwhile society. The original society namely Q-614 Ramachandrapuram Rural Co-Operative Housing Society has become defunct and therefore, it is now



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amalgamated with the 4th respondent society for better administration of the society. This 4th respondent society is also functioning 11 KMs away from the the land in dispute. Further the 4th respondent society has not passed any resolution to construct any building in the disputed land.

5.The learned Counsel for the petitioner fairly admits that the erstwhile Rural Housing Society has not executed any gift deed in favour of the panchayat. However he has made out his case based on the approved layout of the year 1954 and 1959 and this subject land has been allotted for public purpose and that too for park and the petitioner is intending to maintain it as a park for the benefit of the villagers and for the members of the society

6.The learned Counsel for the contesting respondent submits that in the approved layout dated 02.04.1959 the disputed portion is mentioned only as 'reserved', not as stated by the petitioner as 'reserved for park'. The reservation is made only for the benefit of the members of the society and they are intending to construct an office for the society. The respondent panchayat is having several poramboke lands. If they want to establish any park, they can very well establish the same in the government poramboke land. He also submits that the 5th



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respondent society does not have any official building on its own and therefore, the disputed lands is very much required for the society for construction of the office, which was rightly decided by the 2nd respondent by impugned order dated. 26.11.2013. Therefore, there is no reason to interfere with the impugned order passed by the 2nd respondent.

7.This Court considered the rival submissions made and perused the materials placed on record.

8.The petitioner is the President of the panchayat. The erstwhile society-Q-614 Ramachandrapuram Rural Co-Operative Housing Society, which has been amalgamated with the 5th respondent society, had requested the government to acquire the land for the benefits of its members. Accordingly the land was acquired to an extent of 1.86 acres in S.No.112/3A, 3 and 4 of Inam Regunathapuram Village. After obtaining layout permission from the concerned authority the Society has formed a layout in the year 1954. In this original layout certain portion of the land has been mentioned as 'Reserved for Park.' However the society has failed to execute any gift deed in favour of the local body. Meanwhile the original layout has been revised in the year 1959, wherein it has been only



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mentioned as 'Reserved'. The petitioner claims that even though it is mentioned as reserved, it has been construed as it has been 'reserved for park' for the benefit of the society and for the villagers, whereas the 5th respondent claims that reserved means, it is reserved for construction of an office for the society.

9.Free environment is a fundamental right as guaranteed under Article 21 of the Constitution of India. The original layout was approved by the Director of Town Planning in the year 1954 under the Town Planning Act, 1920, that was revised in the year 1959. There is no provision available for the revision of lay out in the 1920 Act. The case of the respondent is that as per 1959 revised plan, the disputed place is mentioned only as reserved place and not reserved for park.

10.Admittedly there is no park in the particular place for the community. The layout was approved as per the Town Planning Act, 1920. The allotment or reservation of land is defined under Section 4 (k) of the Town Planning Act, 1920 and the same reads as under:

“4(k). The allotment or reservation of land for streets, squares, houses, building for religious and charitable purposes, open spaces, gardens, recreational grounds, schools, markets, shops, factories, hospitals, dispensaries, government and



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municipal building and public purpose of all kinds.”

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11.The Hon'ble Supreme Court in ***Bangalore Medical Test Trust Vs B.S.Muddappa and Ors***, reported in ***AIR 1991 SC 1992*** has observed that reservation of open spaces for parks and play grounds is universally recognised as a legitimate exercise of statutory power rationally related to the protection of the residents of the locality from the ill-effects of urbanisation and further observed that it has been recognised under the Town Planning Act, 1920. Further the Hon'ble Supreme Court has held as follows:

“Protection of the environment, open spaces for recreation and fresh air, play grounds for children, promenade for the residents, and other conveniences or amenities are matters of great public concern and of vital interest to be taken care of in a development scheme. Public park as a place reserved for beauty and recreation is associated with growth of the concept of equality and recognition of importance of common man. Earlier free and healthy air in beautiful surroundings was privilege of few. But now it is a 'gift from people to themselves'. Its importance has multiplied with emphasis on environment and pollution. In modern planning and development it occupies an important place in social ecology.”



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12. Therefore this Court comes to a conclusion that even though in the revised layout it has been mentioned only as reserved, it has to be construed as reserved for park for the benefit of the community. Once the place is earmarked for the park, under the category of public purpose, it has to be maintained as a park and not for any other purpose.

13. In the result, this writ petition is allowed. The impugned order is set aside. No Costs.

30.01.2024

Index : Yes / No
Internet : Yes / No
NCC : Yes / No

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