



W.A.(MD)No.1232 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.01.2024

CORAM:

THE HONOURABLE **DR.JUSTICE G.JAYACHANDRAN**  
AND  
THE HONOURABLE **MR.JUSTICE C.KUMARAPPAN**

W.A.(MD)No.1232 of 2015

and

M.P.(MD)No.1 of 2015

The President,  
Sankarapuram Panchayat,  
Sakkottai Panchayat Union,  
Karaikudi Taluk,  
Sivagangai District.

...Appellant

/Vs./

1.S.Antonysamy

2.The District Collector,  
Sivagangai District, Sivagangai.

3.The Member Secretary / Assistant Director,  
Town and Country Planning,  
District Collector Office Campus,  
Sivagangai – 630 561.

4.The Commissioner / Block Development Officer,  
Sakkottai Panchayat Union,  
Sivagangai.

...Respondents

(R3 & R4 are suo motu impleaded as per the order of this Court dated 12.09.2023.)

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**PRAYER:-** Writ Appeal - filed under Clause XV of Letters Patent Act, to set aside the order dated 23.06.2015 made in W.P.(MD)No.14603 of 2013 on the file of this Court and thereby allow this appeal.

For Appellant : Mr.M.Saravanan  
For Respondents : Mr.G.Thalaimutharasu (R1)  
Mr.A.K.Manikkam (R2 to R4)  
Special Government Pleader

### **JUDGMENT**

**DR.G.JAYACHANDRAN, J.**  
**AND**  
**C.KUMARAPPAN, J.**

Heard the learned counsel appearing for the appellant and the first respondent and the learned Special Government Pleader.

2. The appellant herein is the second respondent in WP(MD)No.14603 of 2013, who was the President of Sankarapuram Panchayat at that point of time. The first respondent herein, Antonysamy



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had purchased a piece of land in a layout for residential purpose and when he sought for building permission, it was denied by the President of the Panchayat, who is the appellant herein on the ground that as per the original approved layout in the year 1983, the portion in dispute was allotted for establishing post office. Hence, Antonysamy, the first respondent herein filed a writ of certiorarified mandamus to quash the impugned order passed by the President of Panchayat dated 04.02.2023 and sought for building permission for constructing a house at S.No. 9/6A, 2A, 1B1, Re.S.No.9/62 at Sekkalalikottai village, Sankarapuram Panchayat.

3. The learned Single Judge, on considering the facts and records allowed the writ petition on 23.06.2015 holding that the gift deed alleged to have been executed by the promoters in favour of the Panchayat is an unregistered deed and after the deed of gift dated 19.04.1983, there was reconsideration of the approval in respect of the piece of land earmarked for post office. The Commissioner of Panchayat Union had issued proceedings dated 02.04.1991 subdividing 22 cents of



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land falling within S.Nos.9/1A, 2A, 3A and 4A. Subsequent to subdivision, Antonysamy, writ petitioner had purchased a piece of land and therefore, there cannot be impediment for him to construct the building. Hence, the impugned order passed by the President of Sankarapuram Panchayat was quashed and the writ petitioner was permitted to resubmit the building plan for approval along with required fee. On such application being submitted, the same was directed to be considered by the respondent within a period of four weeks. Being aggrieved by the order, the present writ appeal is filed.

4. The learned counsel appearing for the appellant / second respondent in writ petition, namely, the President, Sankarapuram Panchayat submitted that the writ petition was disposed of without affording opportunity to the appellant. The proceedings of the Commissioner dated 02.04.1991 is contrary to law. Once a piece of land is gifted for public purpose under a layout plan approval, the said piece of land cannot be altered or utilized for any other purpose and the Commissioner of Panchayat has no authority to subdivide the piece of



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land. Therefore, the reference to the proceedings dated 02.04.1991 passed by the Commissioner is erroneous and unsustainable.

5. The learned counsel appearing for the first respondent / writ petitioner submitted that the first respondent / writ petitioner is a bonafide purchaser of the piece of land, which has been permitted to be alienated, since the said piece of land though earmarked for the purpose of establishing post office, neither gifted to Postal Department nor claimed by the Postal Department. The piece of land which was earmarked for post office as per the original layout plan approval in the year 1983 has not been needed by the Postal Department and therefore, the proceedings dated 02.04.1991 was issued by the Commissioner of Panchayat permitting the title holder to subdivide it into residential plots and accordingly, after subdivision, the first respondent / writ petitioner has purchased the property and there is no violation of any layout plan approval.



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6. This Court, after hearing the submissions to ascertain whether there was a revised layout plan approval, after the proceedings of the Commissioner of Panchayat dated 02.04.1991, suo motu impleaded the Member Secretary / Assistant Director, Town and Country Planning, District Collector Office Campus, Sivagangai, and The Commissioner / Block Development Officer, Sakkottai Panchayat Union, Sivagangai, vide order dated 12.09.2023.

7. The core issue involved in this writ appeal is that whether the sale of piece of land in favour of the first respondent / writ petitioner is permissible under law, since it forms part of the land earmarked for post office as per the original layout plan approval dated 06.04.1983.

8. The records on perusal reveal that on 06.04.1983, layout plan was approved subject to certain conditions and one such condition is to gift the portion earmarked for public purpose which includes park, primary health centre, post office and roads. After seven years of the said



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approval, since the Postal Department has not shown any interest in establishing post office in the portion earmarked and the gift deed though executed in favour of the Commissioner of Panchayat Union, but not registered, a request has been made by the promoters to subdivide 22 cents of land earmarked for post office.

9. Accordingly, the Commissioner of Panchayat has reconsidered his earlier layout plan approval, and permitted for subdivision of 22 cents of land into four residential plots. Thereafter, the first respondent / writ petitioner in the year 2002 had purchased plot number 1A measuring 702 sq. fts. and got the sale deed registered on 27.05.2002 and sought for building permission. The elected President of the Panchayat at that point of time had refused to grant building approval, which has given a cause of action for filing writ petition by Anthonymsamy, the first respondent herein.

10. After a lapse of more than 12 years, when the writ appeal came up for final hearing, the President, who contested the writ petition



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is nomore in the office and interestingly, his wife is the present elected President and she entered into the shoes of the erstwhile President and wants to contest the appeal. The right of the Panchayat President in this matter is very limited locus, more so when the Commissioner of Panchayat, who has granted layout plan approval in the year 1983 had reconsidered and permitted for subdivision of 22 cents of land originally earmarked for post office.

**11.** The elected President of the Panchayat questions the validity of the proceedings passed by the Commissioner of Panchayat in Mu.Mu.No.1500/91 dated 02.04.1991. The order impugned by the first respondent in the writ petition does not take note of the subsequent proceedings of the Commissioner passed eight years after the original layout approval. Suppressing that proceedings, the impugned order has been passed and that has been pointed out by the learned Single Judge. If at all the President has any grievance about the proceedings of the Commissioner of Panchayat dated 02.04.1991, he / she should have questioned it at that point of time and cannot wait for the first respondent



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herein to purchase the land and try to put a spoke in his attempt to construct building after purchasing the land for valuable consideration.

**12.** In the light of the above facts and circumstances, the learned Single Judge of this Court has rightly appreciated the facts and quashed the impugned proceedings issued by the erstwhile President of the Panchayat vide order dated 04.02.2013. This Court on considering the facts of the case does not find any error in the order passed by the learned Single Judge and therefore, uphold the said order.

**13.** In the result, this writ appeal is dismissed as devoid of merits. No costs. Consequently, connected miscellaneous petition is closed.

**[G.J.J.] & [C.K.J.]**  
**02.01.2024**

NCC :Yes/No  
Index :Yes/No  
Internet :Yes  
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**TO:-**

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**DR.G.JAYACHANDRAN, J.**  
**AND**  
**C.KUMARAPPAN, J.**

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Judgment made in  
W.A.(MD)No.1232 of 2015

Dated:  
02.01.2024