

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.01.2024

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.451 of 2024

and

W.M.P(MD)No.486 of 2024

Thirumangalam Pioneer Nagar Residents Welfare Association,
Rep by its Secretary,
M.Vijayakumar,
S/o.M.Muthumalai,
No.2, Pioneer Nagar,
Tirumangalam,
Madurai District.

... Petitioner

Vs

1.The District Collector,
Madurai District,
Madurai.

2.The Regional Director of Municipal Administration,
O/o.The Regional Director of Municipal Administration,
Madurai,
Madurai District.

3.The Commissioner,
Tirumangalam Municipality,
Madurai Road,
Tirumangalam,
Madurai District.

4.Tahsildar,
Thirumangalam Taluk,
Madurai Road,

Thirumangalam,
Madurai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing the third respondent from constructing commercial shops in the land earmarked for Park and Public road in Survey No.26/2B2 in the Pioneer Nagar, Tirumangalam Taluk, Madurai District and consequently direct the respondents 1 to 3 to maintain the space earmarked as a park within the time stipulated by this Court.

For Petitioner	: Mr.S.Rajasekar
For R1,R2 & R4	: Mrs.S.Jeyapriya Government Advocate
For R3	: Mr.A.Kannan Additional Government Pleader

ORDER

The petitioner has prayed for issuance of a Writ of Mandamus, forbearing the third respondent from constructing commercial shops in the land earmarked for Park and Public road in Survey No.26/2B2 in the Pioneer Nagar, Tirumangalam Taluk, Madurai District and consequently direct the respondents 1 to 3 to maintain the space earmarked as a park.

2. According to the petitioner, he is the Secretary of the Tirumangalam Pioneer Nagar Residents Welfare Association. On 14.05.1986 an application was made for approval of the layout to the Tirumangalam Municipality and the

second respondent had approved the said layout and the third respondent through his proceedings in Pa.Ma.No.632/85/E, dated 14.11.1986 had approved the said layout with a condition that the area earmarked in the approved layout must not be used for any other purpose.

3. In these circumstances, a registered Gift settlement deed was made by developer, namely, Asia Match company private Ltd., Sivakasi in favour of the third respondent for the construction of children park and playground. That the space earmarked as children park in the approved layout was donated to the third respondent Municipality but till date, the third respondent has not initiated any action to maintain the said children park. In these circumstances, the third respondent had earlier proposed for the construction of public toilets and the same was objected by the residents of our association and a writ petition was filed forbearing the respondent No.1 from constructing the public latrines in the space earmarked for the park. That on 04.08.2006 this Court was pleased to pass an order of interim injunction forbearing the respondent Municipalities from constructing the public latrines in the space earmarked for the park in M.P. (MD)No.1 of 2006 in W.P.(MD)No.6624 of 2006 and subsequently, the third respondent dropped the proposal and recording the same the said writ petition was disposed of. In these circumstances, the third respondent has proposed to

construct commercial shops in the land earmarked for park and public road in survey No.26/2B2 in the Pioneer Nagar, Tirumangalam Taluk, Madurai District. Hence, the petitioner has approached this Court by way of filing the present Writ Petition for the relief stated supra.

5. The third respondent filed a counter and states that the petitioner's apprehension that the respondents are going to construct the commercial shops in the Land earmarked for park and public road in S.No.26/2B2 is without any basis. The petition mentioned site is earmarked as Park in the approved layout. According to the approved Layout plan, the Park site has been taken possession by the third respondent and is kept as a park by making a compound Wall around the park site and for identification as park, the third respondent has installed a Board with the words as “Thirumangalam Municipality” owned park, Pioneer Colony. Hence, the allegations made by the petitioner against the respondents are false and denied and there is no such proposal of alternative use of the site as alleged by the petitioner and prayed for dismissal of the writ petition.

6. Recording the statement made by the learned Additional Government Pleader appearing for the third respondent, this writ petition is disposed of

since the Park site has been taken possession by the third respondent and is kept as a park by maintaining it as a park covered with a compound Wall around the park site. No costs. Consequently connected miscellaneous petition is closed.

24.01.2024

Index : Yes/No

Internet: Yes/No

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V.BHAVANI SUBBAROYAN, J.

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