



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-11-2025

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**THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ**

**WA No. 676 of 2020
AND
WA NO. 3115 OF 2019**

1. R.Sudha
- 2.K.Ramasamy
- 3.A.Vimala
- 4.A.Gopalan
- 5.N.Lakshmi Bai
- 6.R.Vimala
- 7.R.Gokilammal

Appellant(s)

Vs

1. K.Durairaj (died)
- 2.The Secretary
Tamil Nadu Town Administrative And Water Supply
Department, Secretariat, Chennai-9
- 3.The Director
Town Country Planning Authority, No.807, Anna Salai,
Chennai-2
- 4.The Commissioner
Coimbatore City Municipal Corporation, Town Hall,



Coimbatore

5.The Member Secretary

The Local Town Planning Authority, Raj Naidu Street,
Sivanantha Colony, Coimbatore-641012

6.The Secretary

Peelamedu Industrial Workers Co-operative Housing
Construction Society Ltd, No.2 Ramasamy Naidu Nagar,
V.K.Road, Coimbatore-641035

7.S.Madhan

8.P.G.Alexander (died)

9.R.Satheesh Kumar

10.J.Rajendran

11.R.Dharani Kumar

12.V.Rajamani

13.Krishnaveni

14.Kalamani

15.Udayakumar

16.Usha senthikumar

17.Akcheeliya

18.Infant Sofia A

19.Joselin Jennilia

[R1 died, R14 to 16 substituted as legal heirs vide order
dated 14.08.2023 in CMP.No.17886 of 2023 and R8 died,
R17 to 19 substituted as legal heirs vide order dated
02.01.2024 in CMP.No.22751 of 2023]

Respondent(s)



WA No. 3115 of 2019

1. S.Madhan

2.P.G.Alexander (died)

3.R. Sateesh Kumar

4.J. Rajendran

5.R. Dharanikumar,

6.V. Rajamani

7.Krishnaveni

8.AKCHEELIYA .J

9.INFANT SOFIA

10.JOSELIN JENNILA A

[A2 died. Thus, he is substituted by the appellants 8 to 10 are legal heirs of deceased/2nd appellant, vide order of Court dated 12/09/2023 made in CMP.Nos.20365 and 20366 of 2023 in WA.No.3115 of 2019]

Appellant(s)

Vs

1. K.Durairaj (died)

2.The Secretary To Government,
Tamil Nadu Municipal Administration
And Water Supply Department,
Fort St George, Secretariat,
Chennai-9

3.The Director,
Town And Country Planning Authority,
Raj Naidu Street, Sivanantha Colony,
Coimbatore.



4.The Commissioner,
Coimbatore City Minicipal Corporation,
Town Hall, Coimbatore.

5.The Member Secretary,
The Local Town Planning Authority,
Raj Naidu Street, Sivanantha Colony,
Coimbatore.

6.The Secretary,
Peelamedu Industrial Workers,
Co-operative House Construction Ltd,
No.2, Ramasamy Naidu Nagar,
Coimbatore-641 035.

7.R. Sudha,

8.K. Ramasamy

9.A. Vimala

10.A. Gopalan,

11.N. Lakshmi Bai

12.R. Vimala

13.R. Gokilamani,

14.Kalaimani

15.Udhayakumar

16.Usha Senthil Kumar
[R1 died, is substituted by the
appellants 14 to 16 are legal heirs of
deceased 1st respondent, vide order of
court dated 12/09/2023 made in
CMP.Nos.20365 and 20366 of 2023 in
WA.No.3115 of 2019]

Respondent(s)



WA No. 676 of 2020

PRAYER

To allow the above Writ Appeal by setting aside the order dated 18.07.2019 passed in WP No.34395 of 2007.

WA No. 3115 of 2019

PRAYER

To set aside the order in WP No.34395/ of 2007 dated 18.07.2019.

WA No. 676 of 2020

For Appellant(s): Mr.S.Venkatesh S.

For Respondent(s): R1 & R8 died (steps taken)
Mr.S.Senthil Murugan
Special Government Pleader for R2 & 3
Mr.N.Velmurugan
Standing Counsel for R4
Mr.D.Gopal
Government Advocate for R5
No appearance R6
Mr.Avinash Wadhwani for R7, 9-13, 17-19
Mr.T.Mohan
Senior Counsel
for Mr.S.Arun Kumar for R14-16

WA No. 3115 of 2019

For Appellant(s): Mr.Avinash Wadhwani

For Respondent(s): R1 (Died) – Steps taken
Mr.S.Senthil Murugan
Special Government Pleader for R2 & 3
Mr.N.Velmurugan
Standing Counsel for R4
Mr.D.Gopal
Government Advocate for R5
Mr.S.Venkatesh for R7-13
Mr.T.Mohan
Senior Counsel
for Mr.S.Arun Kumar for R14-16
No appearance - R6

COMMON ORDER

(Order of the Court was made by S.M.Subramaniam J.)

Under assail is the writ order dated 18.07.2019 passed in WP.No.34395



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2. 6th respondent in writ petition is appellant. 1st respondent Mr.K.Durairaj instituted writ proceedings challenging Government order issued in G.O.(D).No.245, Municipal Administration and Water Supply Department, dated 21.06.2005.

3. Facts in brief are that Peelamedu Industrial Worker's Co-operative House Construction Society Ltd, a Co-operative Society registered under the Tamil Nadu Co-operative Societies Act, 1983 developed layout and sold plots to its members. Allottees are workers of Pioneer Mills and Radhakrishna Mills, both situate at Peelamedu, Coimbatore. Housing scheme was developed for the benefit of members of co-operative society and lands were acquired by Government for development of scheme through Co-operative Society.



4. Layout had been initially approved by Singanallur Municipality vide D.Dis 84/61, dated 29.06.1968 under L.P.D.M./D.T.P. No.35/68. Layout was approved on condition that roads and other communal areas as provided in approved plan ought to be transferred to the municipal authorities for maintenance. However, Co-operative Society failed to transfer lands till the year 1999. It is the failure on part of Co-operative Society and its authorities to execute gift deeds of roads and common areas as per layout in favour of local bodies.

5. Allegation set out by 1st respondent/writ petitioner is that, in violation of layout approval, common areas have been reduced and remaining common areas were sold by Co-operative Society in favour of other members. Co-operative Society converted the OSR lands allotted for common usage, including development part, and those common lands were sold in favour of other members and sale deeds executed by receiving sale consideration. Said Act of Co-operative Society and its management is in violation of building plan approval granted under the provisions of Town and Country Planning Act and Rules framed thereunder. Non-gifting of land itself is an irregularity committed by officials of Co-operative Society, and Co-operative Department officials, managing the affairs of the Co-operative Society.

6. Initially, as per approved layout of the year 1968, 24.5% out of total



extent of 7.96 acres were sold, reserved for communal purposes. All the members are entitled to utilise the said land as common area, and depriving their rights to utilise the common area, Society sold the OSR lands, including portions of the road, in violation of Rules in force.

7. Only reason stated by Co-operative Society is that 24.5% initially approved by Planning Authority was subsequently reduced by Government for layouts. Therefore, they are entitled to convert common lands allotted for communal purposes and sell remaining portion of land. Therefore, Society has not committed any irregularity.

8. Writ Court also considered the fact that original layout approved by the competent and Planning Authority cannot be altered and common purpose area originally sanctioned must be maintained, as the developer has no right to convert common purpose area. So also, Government orders subsequently reducing common purpose area would apply prospectively and cannot be applied retrospectively, so as to reduce common purpose lands already approved by the competent authority under the provisions of Town and Country Planning Act. Writ Court considered the judgment in the case of ***Pt. Chet Ram Vashist (dead) Vs. Municipal Corporation of Delhi***¹ and the relevant portion reads as under,

“6. Reserving any site for any street, open space, park, school etc. in a layout plan is normally a

¹ 1995 1 SCC 47



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public purpose as it is inherent in such reservation that it shall be used by the public in general. The effect of such reservation is that the owner ceases to be a legal owner of the land in dispute and he holds the land for the benefit of the society or the public in general. It may result in creating an obligation in nature of trust and may preclude the owner from transferring or selling his interest in it. It may be true as held by the High Court that the interest which is left in the owner is a residuary interest which may be nothing more than a right to hold this land in trust for the specific purpose specified by the coloniser in the sanctioned layout plan. But the question is, does it entitle the Corporation to claim that the land so specified should be transferred to the authority free of cost. That is not made out from any provision in the Act or on any principle of law. The Corporation by virtue of the land specified as open space may get a right as a custodian of public interest to manage it in the interest of the society in general. But the right to manage as a local body is not the same thing as to claim transfer of the property to itself. The effect of transfer of the property is that the transferor ceases to be owner of it and the ownership stands transferred to the person in whose favour it is transferred. The resolution of the Committee to transfer land in the colony for park and school was an order for transfer without there being any sanction for the same in law.”



9. Layout has been approved under the Town and Country Planning Act, earmarking common areas, roads, and parks. Designated lands cannot be converted or sold to individuals. The common purpose area is to be maintained for the benefit of all residents in the layout, and right accrued from and out of the layout approval under the provisions of the Act. Any Government policy reducing common purpose area will have prospective effect and it will not affect layout approval already granted and right vested on purchasers of plots in a particular layout. Once common areas and roads are earmarked and the properties whether gifted in favour of local authority or not, road, streets, parks become a public property and all such roads can be utilised by public in general. Therefore, once public right accrued on account of layout approval, more specifically streets, road etc., thereafter, Government cannot convert or alter by reducing common purpose area with retrospective effect. Therefore, Government order impugned issued in GO.(D).No.245, Municipal Administration and Water Supply Department, dated 21.06.2005 is running counter to the principles of law and cannot be sustained. Government cannot issue any order giving retrospective effect in respect of common purpose land already approved in a layout under the provisions of Town and Country Planning Act.

10. Importance and maintenance of common purpose land including OSR has been elaborately considered by the Hon'ble Supreme Court of India



in the case of **Association of Vasanth Apartments' Owners Vs. V. Gopinath and Others**² 2023 SCC Online SC 137. The principles are

enunciated and more specifically in paragraph 184 (VI), the Apex Court held that “ The areas covered by the OSR cannot be diverted for any other purpose. The respondents are duty-bound to ensure that the area set apart as OSR is stringently utilised only for the purpose in the Rule/Regulation. We direct that no area meant for OSR shall be utilised as dumping yards or any other purpose other than as OSR”.

11. Division Bench of this Court in the case of **V.N.R Nagar Welfare Association vs The District Of Town And Country Planning Authority** in WP.No.3873 of 2013 etc., dated 26.02.2024 held as follows,

“9. At the outset, the planning permission/layout approval granted under the provisions of the Act is to be followed for all the purposes and any conversion, encroachments, misuse or otherwise are to be dealt with in accordance with law and all structures, constructions, encroachments are to be removed by following the procedures. Encouraging such unauthorized constructions, conversions or deviations would result in an anomalous situation, where greedy men will be again and again tempted to commit such W.P.Nos.3873, 24934 and 24935 of 2017 and 26578 of 2013 illegality, which is

² 2023 SCC Online SC 137



detrimental to the environment and the very purpose and object of the scheme of Town Planning will be defeated. Therefore, scrupulous adherence of the planning permission by the competent authorities are imminent and deviations are to be dealt with in accordance with law. Unless actions are taken, there is no scope for peaceful living for future generation. We are duty bound to ensure that the environmental aspects are protected for the well-being of the people of that locality and peaceful life being an integral part under Article 21, such rights are to be protected by the authorities by following the provisions of the Act and Rules.

10. In view of the principles discussed above, the Commissioner, Coimbatore City Municipal Corporation is directed to scrutinize the files of the writ petitioners/owners/persons claiming right/persons claiming possession individually and identify the encroachments, illegalities, violations etc., if any and accordingly, issue fresh show-cause notice to all the persons and thereafter, on receipt of objections, if any and proceed with the eviction of encroachers, demolition of unauthorized constructions, removal of obstructions etc., in the manner contemplated under the provisions of the Statutes and Rules in force. It is made clear that all such W.P.Nos.3873, 24934 and 24935 of 2017 and 26578 of 2013 encroachments, illegalities and violations are to be removed by scrupulously



following the procedures and by affording opportunity to the parties. The said exercise is directed to be completed within a period of twelve weeks from the date of receipt of a copy of this order. In respect of places where the Coimbatore City Municipal Corporation Act is inapplicable, the report is to be submitted to the jurisdictional Tahsildar for the purpose of evicting the encroachments, if any, by invoking the provisions of the Tamil Nadu Land Encroachments Act, 1905 or the appropriate Statutes and Rules in force.”

12. Writ Court has elaborately considered the issues and the consequences of conversion of common purpose land as plots as done in the present case and set aside the Government order issued in GO.(D).No.245, Municipal Administration and Water Supply Department, dated 21.06.2005. This Court does not find any infirmity or perversity in respect of the findings made by the Writ Court to that effect.

13. Learned counsel for the appellant would mainly contend that he is an innocent purchaser of plot from Co-operative Society registered under Tamil Nadu Co-operative Societies Act. Writ Court had already granted a relief to appellant by directing Co-operative Society to repay sale consideration already received by Society.

14. Principal Secretary to Government, Food and Consumer Protection



Department, Fort St. George, Chennai and the Registrar of Cooperative Societies, NV Natarajan Maligai No.170, Periyar E.V.R.High Road, Kilpauk Chennai are directed to initiate all appropriate actions against the officials of the Co-operative Society and the department officials, who have involved in conversion of common lands as plot in violation of layout approval granted in the year 1968 and recover the financial loss occurred to Co-operative Society by following procedures as contemplated under Tamil Nadu Co-operative Societies Act, 1983 and in respect of department officials in addition initiate disciplinary proceedings under relevant Service Rules.

15. Coimbatore Corporation is directed to take possession of OSR lands and roads, etc., as per the original layout approval of the year 1968 and maintain the common purpose land for the benefit of the public and residents of that locality as per law. The said exercise is directed to be completed within a period of three months from the date of receipt of a copy of this order.

16. With the above directions, the Writ Appeals are dismissed. No costs. Consequently, the connected miscellaneous petitions, if any, are closed.

(S.M.SUBRAMANIAM J.)(MOHAMMED SHAFFIQ J.)

18-11-2025

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Index:Yes/No



Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

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1.Principal Secretary to Government,
Food and Consumer Protection
Department, Fort St. George, Chennai

2.Registrar of Cooperative Societies,
NV Natarajan Maligai No.170, Periyar
E.V.R.High Road, Kilpauk Chennai

3.The Secretary
Tn Town Administrative And Water
Supply Department, Secretariat,
Chennai-9

4.The Director
Town Country Planning Authority,
No.807, Anna Salai, Chennai-2

5.The Commissioner
Coimbatore City Municipal
Corporation, Town Hall, Coimbatore

6.The Member Secretary
The Local Town Planning Authority,
Raj Naidu Street, Sivanantha Colony,
Coimbatore-641012

7.The Secretary
Peelamedu Industrial Workers Co-
operative Housing Construction
Society Ltd, No.2 Ramasamy Naidu
Nagar, V.K.Road,
Coimbatore-641035



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To

1.Principal Secretary to Government,
Food and Consumer Protection
Department, Fort St. George, Chennai

2.Registrar of Cooperative Societies,
NV Natarajan Maligai No.170, Periyar
E.V.R.High Road, Kilpauk Chennai

3.K.Durairaj (died)
S/o. Krishnasamy, No.35,
Radhakrishnan Mills, B-colony,
Peelamedu Pudur, Coimbatore- 641
004.

4.The Secretary To Government,
Tamil Nadu Mpunicipal Administration
And Water Supply Department, Fort
St George, Secretariate, Chennai-9

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Raj Naidu Stteet, Sivanantha Colony,
Coimbatore.

6.The Commissioner,
Coimbatore City Minicipal Corporation,
Town Hall, Coimbatore.

7.The Member Secretary,
The Local Town Planning Authority,
Raj Naidu Street, Sivanantha Colony,
Coimbatore.

8.The Secretary,
Peelamedu Industrial Workers, Co-
operative House Construction Ltd,



No.2, Ramasamy Naidu Nagar,
Coimbatore-641 035.

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1.K.Durairaj
S/o. Krishnasamy, No.35,
Radhakrishnan Mills, B-colony,
Peelamedu Pudur, Coimbatore- 641
004.

2.The Secretary To Government,
Tamil Nadu Mpunicipal Administration
And Water Supply Department, Fort St
George, Secretariate, Chennai-9

3.The Director,
Ton And Country Planning Authority,
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Coimbatore City Minicipal
Corporation, Town Hall, Coimbatore.

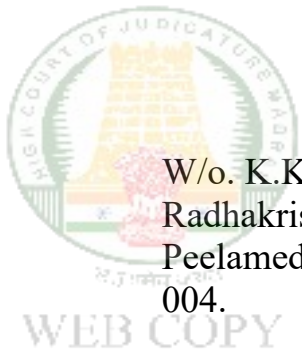
5.The Member Secretary,
The Local Town Planning Authority,
Raj Naidu Street, Sivanantha Colony,
Coimbatore.

6.The Secretary,
Peelamedu Industrial Workers, Co-
operative House Construction Ltd,
No.2, Ramasamy Naidu Nagar,
Coimbatore-641 035.

7.R. Sudha,
W/o. B. Sundar Rajan, Site No.109,
Radhakrishnan Mill, B-colony,
Peelamedu Pudur, Coimbatore-641
004.

8.K. Ramasamy
S/o. Krishnan Gounder, Site No.110,
Radhakrishnan Mill, B-colony,
Peelamedu Pudur, Coimnbatore - 641
004.

9.A. Vimala



W/o. K.K.Andappan, Site No.115,
Radhakrishnan Mill, B-colony,
Peelamedu Pudur, Coimbatore-641
004.

10.A. Gopalan,
S/o. Angamuthu Gounder, Site No.111,
Radhakrishnan Mill, B-colony,
Peelamedu Pudur, Coimbatore-641
004.

11.N. Lakshmi Bai
W/o. Nithyanandham, Site No.113,
Radhakrishnan Mill, B-colony,
Peelamedu Pudur, Coimbatore-641
004.

12.R. Vimala
W/o. K. Radhakrishnan,
Radhakrishnan Mill, B-colony,
Peelamedu Pudur, Coimbatore-641
004.

13.R. Gokilamani,
W/o. S. Chinnasamy, Site No.114,
Radhakrishnan Mill, B-colony,
Peelamedu Pudur, Coimbatore-641
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**S.M.SUBRAMANIAM J.
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