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W.P.NOS.20574 & 19731 OF 2021
AND 18506 OF 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT RESERVED ON : 30 / 10 / 2025

JUDGMENT DELIVERED ON: 02 / 12 / 2025

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

WP NOS.20574 AND 19731 OF 2021 AND 18506 OF 2022

AND

WMP NOS.21812, 21813 & 21814 OF 2021 IN WP NO.20574 OF

2021

AND

WMP NOS.21002 & 21003 OF 2021 IN WP NO.19731 OF 2021

AND

WMP NOS.17856 & 17858 OF 2022 IN WP NO.18506 OF 2022

WP NO.20574 OF 2021

Tmt.R.Santhi

W/o.Thiru Sundaraj

15/191, Trichy Road,

Shanthi Complex, Pappampatti Pirivu,

Sulur Taluk, Coimbatore – 641 103.

... Petitioner

Versus

1.State of Tamil Nadu

Represented by Secretary to Government,

Municipal Administration and Water

Supply Department,

Secretariat, Fort St. George,

Chennai – 600 009.

2.The Coimbatore Municipal Corporation

Represented by its Commissioner,

Corporation Building,

Coimbatore.



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3.Kalapatti Periyar Nagar Residents
Welfare Association
Represented by its President - Mr.U.Rajendran
9/105, Periyar Nagar, Nehru Nagar East,
Civil Aerodrome Post,
Coimbatore – 641 014.

Note: Respondent No.3 impleaded as
per Order dated January 3, 2024 made
in W.M.P. No.28127 of 2021 in
W.P.No.20574/2021

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents 1 and 2 and their Officers, staff, employees or any other person authorized by them from in any way interfering with the writ petitioner's peaceful possession and enjoyment of her property at Site No.7, 8 & 9 comprised in S.F.No.796/1H and 797/2x, Ward No.35, Periyar Nagar, Nehru Nagar East, Kalapatty, Coimbatore – 641 048 except in accordance with law and consequently direct the second respondent to restore the fencing in the aforesaid petitioner's property, which was removed by the second respondent on September 14, 2021.

For Petitioner : Mr.P.Richardson Wilson
for M/s.P.Wilson Associates

For Respondent-1 : Mr.G.Ameedius
Government Advocate

For Respondent-2 : Mr.K.Magesh

For Respondent-3 : Mr.M.Velmurugan



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WP NO.19731 OF 2021

1.K.Gunasekaran

S/o.Late Krishnasamy

Residing at No.9/24(9/3)

Periyar Nagar, Nehru Nagar East,
Civil Aerodrome Post, Kalapatti Road,
Coimbatore South, Coimbatore – 641 014.

2.Tmt.Renuka

W/o.K.Gunasekaran

9/24(9/3), Nehru Nagar East,
Kalapatti Road, Coimbatore South,
Coimbatore – 641 014.

... Petitioners

Versus

1.State of Tamil Nadu

Represented by Secretary to Government
Municipal Administration and Water
Supply Department,
Secretariat, Fort St. George,
Chennai – 600 009.

2.The Coimbatore Municipal Corporation

Represented by its Commissioner
Corporation Building,
Coimbatore – 641 001.

3.Kalapatti Periyar Nagar Residents

Welfare Association,
Represented by its President - Mr.U.Rajendran
9/105, Periyar Nagar, Nehru Nagar East,
Civil Aerodrome Post,
Coimbatore – 641 014.

Note: Respondent No.3 impleaded as
per Order dated January 3, 2024 made
in W.M.P. No.28129 of 2021in W.P.
No.19731 of 2021

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records of the second respondent pertaining to the impugned notice dated August 25, 2021 issued under Section 258(1) and Section 441 of Coimbatore City Municipal Corporation Act and the impugned notice dated August 25, 2021 issued under Section 258(4) and Section 441 of the Coimbatore City Municipal Corporation Act and quash the same with exemplary cost.

For Petitioner : Mr.P.Richardson Wilson
for M/s.P.Wilson Associates

For Respondent-1 : Mr.G.Ameedius
Government Advocate

For Respondent-2 : Mr.K.Magesh

For Respondent-3 : Mr.M.Velmurugan

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K.Uma Maheshwari

W/o. M.Srinivasan

Through her Power of Attorney

Holder - Kandasamy,

Door No.2/165, Padmalaya Nagar,

Narasimanaickenpalayam, Coimbatore North,

Coimbatore – 641 031.

... Petitioner

Versus

1.State of Tamil Nadu

Represented by Secretary to Government

Municipal Administration and Water

Supply Department,

Secretariat, Fort St. George,

Chennai – 600 009.



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2.The Coimbatore Municipal Corporation
Represented by its Commissioner
Corporation Building,
Coimbatore – 641 001.

3.Kalapatti Periyar Nagar Residents
Welfare Association,
Represented by its President - Mr.U.Rajendran
9/105, Periyar Nagar, Nehru Nagar East,
Civil Aerodrome Post,
Coimbatore – 641 014. ... Respondents

Note: Respondent No.3 impleaded as
per Order dated January 3, 2024 made
in W.M.P. No. 19153/2023 in W.P.
No.18506/2022

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents 1 and 2 and their Officers, staff, men, employees or any other person authorized by them from in any way interfering with the peaceful possession and enjoyment by the petitioner of her property at Site No.5 & 6 comprised in S.F.No.796/1H and 797/2x, Ward No.35, Periyar Nagar, Nehru Nagar East, Kalapatty, Coimbatore – 641 048 except in accordance with law and consequently direct the second respondent to remove the placards placed in the petitioner's property and restore the fencing in the petitioner's property at Site No.5 & 6 comprised in S.F.No.796/1H and 797/2x, Ward No.35, Periyar Nagar, Nehru Nagar East, Kalapatty, Coimbatore – 641 048, which was removed by the second respondent on September 14, 2021.

For Petitioner : Mr.P.Richardson Wilson
for M/s.P.Wilson Associates

For Respondent-1 : Mr.G.Ameedius



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Government Advocate

For Respondent-2 : Mr.K.Magesh

For Respondent-3 : Mr.M.Velmurugan

COMMON ORDER

R.SAKTHIVEL, J.

An extent of 12 Acre 14 Cents comprised in Survey Nos.785/1, 797/2, 798/1 and 798/2 of Kalapatti Village was developed into a layout with 138 residential plots vide Layout Approval in LP/R(CPN) No.228 of 1985 approved by Senior Deputy Director, Town Planning. In the layout plan, an extent of 2671 sq. mtr. was reserved for community purpose, 1942.5 sq. mtr. was reserved for park, 220 sq. mtr. was reserved for overhead tank and borewell, and 544 sq. mtr. was earmarked for commercial purposes.

2. The case of the writ petitioners in all the instant writ petitions is that an extent of 33 cents 324 sq. ft. in Survey No.797/2, Kalapatti Village was originally owned by V.Ayyasamy and V.Natarajan. Another extent of 33 cents 311 sq.ft., comprised in Survey No.796/1 of Kalapatti Village was originally owned by Vellappakonar.

2.1. V.Ayyasamy and V.Natarajan executed a General Power of Attorney Deed vide Document No.164 of 1985 on the file of the Sub



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Registrar Office, Gandhipuram, appointing R.Govindaraj and R.Palanisamy as their Power Agents. Likewise, Vellappakonar executed a registered Power of Attorney Deed dated May 22, 1989 registered as Document No.167 of 1989 on the file of the Sub Registrar Office, Gandhipuram, appointing one R.Radhakrishnan as his Power Agent.

2.2. Vellappakonar through his Power Agent - Mr.R.Radhakrishnan sold the entire extent comprised in Survey No.796/1 on December 04, 1989 in favour of M.Selvaraj, S.Gopalakrishnan and B.Venugopal. Likewise, V.Ayyasamy and V.Natarajan through their the Power Agents - Govindaraj and Palanisamy sold the entire extent of 33 cents 324 sq.ft. comprised in Survey No.797/2 on December 4, 1989 in favour of M.Selvaraj, S.Gopalakrishnan and B.Venugopal. Both the Sale Deeds were initially registered in the Office of the Sub Registrar, Vadakkancherry, Kerala. Later after paying the remaining stamp duties and registration fees, it was registered in the Sub Registrar Office, Gandhipuram. Hence, the aforesaid persons viz., M.Selvaraj, S.Gopalakrishnan and B.Venugopal are absolute owners of the properties comprised in S.Nos.797/2 and 796/1 of Kalapatti Village, Coimbatore Taluk.

2.3. Thereafter, one of the purchasers, namely, M.Selvaraj passed

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away leaving behind his wife - Saraswathi, father - Marappan and mother - Chinnammal as his legal heirs and they jointly executed a Power of Attorney dated September 27, 2004, appointing S.Gopalakrishnan and B.Venugopal, the co-owners, as their Power Agents to sell their shares in Survey No.797/2 and 796/1.

2.4. The aforesaid persons obtained a layout plan from the erstwhile Kalapatti Town Panchayat on March 23, 1993 for the entire extent of 267 sq. mtr. and thereby divided the properties into 9 plots / sites and sold them to various individuals.

2.5. The writ petitioners are purchasers of six of the nine sites. Santhi, the writ petitioner in W.P. No.20574 of 2021, directly purchased Site Nos.7, 8 and 9 vide three Sale Deeds even dated January 20, 2006. Gunasekaran and his wife - Renuka, the writ petitioners in W.P. No.19731 of 2021, vide Sale Deed dated April 11, 2008, purchased Site No.3 from one Arumugam, Power Agent of Kannappan Arumugam; Kannappan Arumugam had purchased it through his Power Agent from S.Gopalakrishnan and B.Venugopal vide Sale Deed dated February 14, 2005. Uma Maheshwari, the writ petitioner in W.P. No.18506 of 2022, jointly with her husband - Srinivasan, purchased Site Nos.5 and 6 vide Sale Deeds even dated November 12, 2004 and in turn, her husband



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executed a Settlement Deed *qua* his shares (50%) in her favour vide 2 Settlement Deeds even dated January 02, 2020.

2.6. The writ petitioners are the absolute owners of their respective sites and are in peaceful possession and enjoyment thereof. The executive officers of Kalapatti Town Panchayat, approved the building plan and provided building permission vide Na.Ka.655 of 2008 dated June 10, 2008 (Building Licence No.111 of 2008). Based on the same, Gunasekaran and his wife - Renuka constructed a residential building on their property. Santhi and Uma Maheswari left their properties as vacant sites. Santhi and Uma Maheswari have been paying Land Tax in respect of their respective sites, and Gunasekaran and his wife have been paying House Tax in respect of their property.

2.7. While so, the Coimbatore Municipal Corporation interfered with the peaceful possession and enjoyment of the writ petitioners by placing placards in the sites owned by Santhi and Uma Maheswari, the writ petitioners in W.P.Nos.20574 of 2021 and 18506 of 2022 respectively and also removing the fencing erected by them in their respective sites, and by issuing Notice under Section 258(1) and Section 441 of Coimbatore City Municipal Corporation Act, 1981 to Gunasekaran and his wife, the writ petitioners in W.P.No.19731 of 2021. Hence the

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writ petitions.

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2.8. Santhi and Uma Maheswari in their respective writ petitions in W.P.No.20574 of 2021 and W.P.No.18506 of 2022 have prayed for issuance of Writ of Mandamus, forbearing the respondents 1 and 2 and their Officers, staff, employees or any other person authorised by them from in any way interfering with the peaceful possession and enjoyment of their respective properties in Site Nos.5 and 6 (Uma Maheswari) and Site Nos.7, 8 & 9 (Santhi), all comprised in S.F.No.796/1H and 797/2x, Ward No.35, Periyar Nagar, Nehru Nagar East, Kalapatty, Coimbatore – 641 048 except in accordance with law and consequently direct the second respondent to restore the fencing in their aforesaid respective properties, which were removed by the second respondent on September 14, 2021.

2.9. Prayer of Gunasekaran and his wife in W.P. No.19731 of 2021, is for issuance of a Writ of Certiorari, calling for the records of the second respondent pertaining to the impugned Notice dated August 25, 2021 issued under Section 258(1) and Section 441 of Coimbatore City Municipal Corporation Act, 1981 and quash the same with exemplary cost.

3. That being the case of the writ petitioners, the Commissioner of

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City Municipal Corporation, Coimbatore (the second respondent in all Writ Petitions) filed counter which can be summarised as follows:

3.1. Originally, an extent of 12 Acre 14 Cents comprised in Survey Nos.785/1, 796/1, 797/2 , 798/1 and 798/2 of the Kalapatti Village was formed into a layout in the name of 'Periyar Nagar', and the same was approved by competent authority vide Layout Approval No.LP/R(CPN)No.228/85. The particulars of the approved layout is as follows:

Total no. of residential plots	-	138
Reserved for community purpose	-	2671.0 sq.mtr.
Reserved for park	-	1942.5 sq.mtr.
Reserved for OHT and bore well	-	220.0 sq.mtr.
Shop	-	544.0 sq.mtr.

3.2. Based on the above, 'the Director of Town and Country Planning' ['D.T.C.P.' for short] approved the area earmarked for parks, roads, over-head tanks and bore well, which were then handed over to the erstwhile Kalapatti Town Panchayat in 1995. However, an extent of 2671 sq. mtr. earmarked for community purpose was not handed over, which the layout promoter was required to do as per the Circular of the D.T.C.P. in ROC No.24279/88/LA Jan.1989. Contrary to the Circular, the layout



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promoter failed to handover the area reserved for community purpose. On the other hand, the promoter somehow managed to obtain approval to convert the area earmarked for community purpose into 9 residential plots vide Permission No.173/93 dated March 23, 1993 from the erstwhile Kalapatti Town Panchayat and subsequently sold them to individual purchasers including petitioners. The layout promoters had no authority to sell this land, even though it had not been formally gifted to the local body. The local body is the lawful custodian of the reserved site and has full authority to remove any encroachments. Further, the erstwhile Kalapatti Town Panchayat had no power to convert the reserved site into residential plots; in other words, it had no power to modify the approved layout granted by the D.T.C.P. and the same is invalid and unsustainable in law. The officials of the second respondent - Corporation inspected the layout and found that the petitioners and others had encroached the reserved site earmarked for community purpose.

3.3. One Mr.Venugopal son of R.Balakrishnan filed the Suit in O.S. No. 1548 of 2015 before I Additional District Munsif, Coimbatore, against the second respondent herein - Corporation and others with a prayer to declare the documents relating to 9 residential plots (carved out of the area reserved for community purpose) as valid. The said Suit is still



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pending and no interim order was passed in favour of the encroachers.

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3.4. As regards the writ petitioners in W.P. No.19731 of 2021 - Gunasekaran and his wife, they obtained building permission and permission for other necessary facilities based on the approval granted by erstwhile Kalapatti Town Panchayat. Since erstwhile Kalapatti Town Panchayat has no power or authority to grant approval for the same, they are invalid in law.

3.5. The layout promoter without handing over the reserved site earmarked for community purpose with an ulterior motive, obtained approval from the erstwhile Kalapatti Town Panchayat, which is not valid in law. The Sale Deeds executed in favour of all the petitioners based on the said approval are invalid. The petitioners are encroachers of the land reserved for community purpose under the custody of the local body and hence, the second respondent - Corporation rightly issued notice for removal of encroachment and legally took possession of the encroached area on September 14, 2021. Accordingly, they prayed to dismiss these writ petitions.

4. Mr.Richardson Wilson, learned Counsel appearing for the writ petitioners in all the writ petitions drew attention of this Court to the



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Approved Layout in LP/R(CPN) No.228 of 1985 which was approved by

Senior Deputy Director of Town and Country Planning, Coimbatore - Periyar - Nilgiris Region and submitted that a total of 138 residential plots were proposed, and an extent of 2671.0 sq. mtr. was reserved for community purposes, an extent of 1942.5 sq. mtr. was reserved for park, an extent of 220.0 sq. mtr. was reserved for overhead tank and bore well, and an extent of 544.0 sq. mtr. was earmarked for shops. Further he submitted that the ownership of the land earmarked for community purposes remained with the layout owner or the promoter. Since no one came forward to buy those lands for the purpose of establishing school, hospital, recreational club, etc. within 5 years from the date of layout, the layout owners in 1993 applied before the erstwhile Kalapatti Town Panchayat for layout approval for plots in respect of the land earmarked for community purposes. Vide Office Proceedings 173/93 dated March 23, 1993, the proposed layout was approved.

4.1. He further submitted that Santhi, the writ petitioner in W.P. No.20574 of 2021, purchased 3 plots between 2005 and 2006. Uma Maheswari, the writ petitioner in W.P. No.18506 of 2022, and her husband purchased 2 plots in 2004. The vendor of Gunasekaran and his wife (the writ petitioners in W.P. No.19731 of 2021), namely Arumugam



purchased 2 plots in 2005 and later sold them to Gunasekaran and his wife. The writ petitioners are *bona fide* purchasers with value and they are in peaceful possession and enjoyment of their respective sites. Santhi and Uma Maheswari, the writ petitioners in W.P. No.20574 of 2021 and W.P. No.18506 of 2022, have been paying land tax and Gunasekaran and his wife, the writ petitioners in W.P. No.19731 of 2021 have in fact obtained Building Plan approval in 2008 and constructed a house in their property and have also been paying house tax for the same.

4.2. Further, he drew attention to G.O. (Ms.) No. 103 of 2014 and submitted that the 'Master Plan of 2041' approved under Section 28 of the Tamil Nadu Town and Country Planning Act, 1971 for Coimbatore, recognises Survey Nos.796 and 797 as lands for residential use.

4.3. As regards the registration at Kerala State, he submitted that the Registration (Tamil Nadu Amendment) Act, 1997 (Tamil Nadu Act No. 19 of 1997) would not apply to a 1989 transaction. The petitioners' vendor paid the difference in stamp duty at the jurisdictional Sub Registrar Office, Gandhipuram and registered the same. Hence, there is no violation of Section 28 of the Registration Act, 1908.

4.4. Further he would submit that in the absence of cancellation of layout approval granted by the executive officer in 1993, the second



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respondent - Corporation cannot contend that the layout is invalid and unsustainable in law. Further, the third respondent's plea cannot be considered in view of the long lapse of time.

4.5. The sum and substance of his argument is that the area reserved for community purposes belongs to the promoter; that the promotor being the owner of the land reserved for community purposes, chose to convert it into residential plots and obtained necessary layout approval; that the writ petitioner are *bona fide* purchasers of some of those plots; therefore, the local body has no right to interfere with their peaceful possession and enjoyment; that the second respondent - Corporation has no right over the land reserved for community purposes and further the executive office of the erstwhile Kalapatti Town Panchayat approved the conversion and granted layout permission in the year 1993 and hence, the second respondent - Corporation is estopped from contending otherwise. Accordingly, he prayed to allow the writ petitions.

5. Per contra, Mr.G.Ameedius, learned Government Advocate appearing for the first respondent in all the writ petitions drew the attention of this Court to Paragraph No.5 of the counters filed by second



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respondent - Corporation in all the writ petitions (whereof Paragraph No.5 is one and the same) and submitted that an extent of 12 Acre 14 Cents comprised in Survey Nos.785/1, 796/1, 797/2 and 798/1 & 2 of Kalapatti Village has been approved by the competent authority - D.T.C.P. vide Approved Layout No.LP/R(CPN) No.228/85. The erstwhile Kalapatti Town Panchayat has no right or authority to approve the plan in respect of the property reserved for community purposes by D.T.C.P. under the Tamil Nadu Town and Country Planning Act, 1971. Hence, the alleged approval of layout by erstwhile Kalapatti Town Panchayat is invalid and *non-est* in law. Second respondent - Corporation by exercising the powers conferred on them, rightly treated the petitioners as encroachers and issued them with notice for removal of encroachment in which, there is no irregularity or illegality. Accordingly, the learned Government Advocate prayed to dismiss these writ petitions.

6. Mr.K.Magesh, learned Counsel for the second respondent -Corporation, in addition to the arguments of the learned Government Advocate, submitted that once a layout has been approved by D.T.C.P., no change can be effected even in the site boundaries, let alone converting earmarked area for common purposes into residential purposes. Areas reserved for communal or common purpose must be utilised only for the



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purpose as mentioned in the D.T.C.P.'s Approved Layout. The erstwhile Kalapatti Town Panchayat has no authority to change or modify the D.T.C.P. Approved Layout nor to create layouts in the area reserved for communal purpose in a layout approved by D.T.C.P., that too without D.T.C.P.'s consent. Accordingly, he prayed to dismiss the writ petitions.

7. Mr.M.Velmurugan, learned Counsel for the third respondent - Kalapatti Periyar Nagar Residents Welfare Association adopted the arguments advanced by Mr.G.Ameedius and Mr.K.Magesh and further submitted that the petitioners were fully aware of the nature of the properties they were purchasing. It is implausible for the petitioners to claim ignorance regarding the fact that the sites were reserved for communal purposes. A bare perusal of the public records would have showed that the land is reserved for community purposes. The writ petitioners are not *bona fide* purchasers and they are acting in collusion with the promoters. The very fact that the registration was carried out at Kerala proves the collusion and fraudulent intent. The promoters being mere trustees had no right to sell the area reserved for community purposes. The residents of Periyar Nagar purchased their plots only after reviewing the D.T.C.P.'s approval and being drawn to the proposed facilities such as shops, parks, and communal spaces. Over time, the area



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came under the jurisdiction of the second respondent - Corporation, leading to rapid development, given its proximity to the airport and other attractive features. This led to significant increase in population density. Hence, lung space has become essential for the residents, which is supposed to be fulfilled in the land reserved for common use. Therefore, the residents are entitled to use this land, and no conversion of its purpose shall be allowed. Accordingly, he prayed to dismiss the writ petition.

8. This Court has given its anxious consideration to the arguments presented by the learned Counsels, and also perused the entire materials available on record. The question that needs to be considered in these writ petitions are :

- (i) Whether the ownership of the land earmarked for community purposes in the layout approval granted under Rule 3 read with Rule 18 of the Tamil Nadu Panchayat Building Rules, 1970 remains with the layout owner / promoter ?
- (ii) Whether the land earmarked for community purposes in the layout approval plan can be converted into plots subsequently ?
- (iii) Whether the second respondent - Corporation is estopped from



denying or contending against the subsequent layout approval granted by the erstwhile Kalapatti Town Panchayat in respect of the area reserved for community purpose ?

(iv) Whether the third respondent has any right over the land earmarked for community purposes ?

Point Nos.(i) and (ii)

9. An application for approval of layout of sites in respect of an extent of 12 Acre 14 Cents comprised in Survey Nos.785/1, 797/2, 798/1 and 798/2 of Kalapatti Village was submitted to the executive officer of erstwhile Kalapatti Town Panchayat under Rule 3 of Tamil Nadu Panchayat Buildings Rules, 1970. In the said layout, 138 residential plots were plotted out. As there were more than 50 plots, the application was forwarded under Rule 3 of Tamil Nadu Panchayat Buildings Rules, 1970 to D.T.C.P. who approved the layout vide Layout Approval in LP/R(CPN) No.228 of 1985.

10. This Court has perused the copy of D.T.C.P. Approved Layout annexed in the typed set of papers. Perusal would reveal the following particulars:



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Total no. of residential plots	-	138
Reserved for community purpose	-	2671.0 sq. mtr.
Reserved for park	-	1942.5 sq. mtr.
Reserved for OHT and bore well	-	220.0 sq. mtr.
Shop	-	544.0 sq. mtr.

11. As stated *supra*, D.T.C.P.'s Layout Approval in LP/R (CPN) No.228 of 1985 was granted in the year 1985. At that time Kalapatti Village was a Town Panchayat governed by the Tamil Nadu Panchayats Act, 1958 [Act No.35 of 1958] and the rules framed thereunder. Hence, the Tamil Nadu Panchayat Building Rules, 1970, which came into force on April 12, 1972, was applicable to the approved layout. Reference shall be made to Rule 18 of Tamilnadu Panchayat Building Rules, 1970. Rule 18 has been extracted hereunder for ready reference:

"18. Common amenities.- In every layout which has a provision for more than 10 houses, the following minimum standard of amenities shall be provided:—

(1) An open space for common public use as park, playground or recreation ground to an extent not less than 10 per cent. of the total area of the layout.

(2) Such open spaces and common amenities



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shall be so distributed in order that one such open space shall be available for every group of 25 houses.

????(3) There shall be provided one or more public wells, public baths and latrines in every layout to the satisfaction of the executive authority.

????(4) Facilities such as shopping, recreation centre, community hall and library shall be provided in accordance with the size of the development and based on the following standards:—

????a. For every 100 persons, there shall be at least one shop; and

????b. For every 1,000 persons, there shall be a common children playground, a primary school, a community hall, a library and a recreation centre.

(5) Separate provision shall be made in every development site specifically reserved for temples, churches, mosques and other religious institutions as may be necessary.

(6) Provision shall be made for burial of the dead or their cremation at suitable locations away from the residential and other developments and no burial or burning shall be permissible within 90 metres of the development.



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12. It is admitted fact that the park and the roads alone have been gifted to erstwhile Kalapatti Town Panchayat and not the land earmarked for community purposes. It is settled law that layout owners / promoters have no right in the area earmarked as 'open space reserves' [popularly called as 'OSR'] in the form of parks, roads, platforms, playgrounds, etc., whether or not the same has been gifted in favour of the local body. But the law applicable then regarding land earmarked for community purposes was different. As per the Tamil Nadu Panchayat Building Rules, 1970, layout owner / promoter is the owner of the land reserved for community purposes, who is however entitled to sell the same only for the purpose it is earmarked for. In other words, the layout owner / promoter can sell the land reserved for community purposes, but only for that purpose. Community purpose has not been defined in the Tamil Nadu Panchayats Act, 1958 and the rules framed thereunder nor in Tamil Nadu Town and Country Planning Act, 1971. Hence this Court is referring to definition provided in ***P.Ramanatha Iyer's Law Lexicon*** [2nd Edition, Lexis Nexis], which is as hereunder:

"Community. Joint ownership or common position in regard to something (as) community of goods or of interests; a society or body of people



living in the same place, under the same law and regulations, and who have common rights and privileges; a corporation or body politic. "The community" means the public generally."

13. From the above, it could be broadly understood that land earmarked for community purposes shall be sold for the purpose of building community halls, play schools, hospitals, recreational centres, etc.

14. Thus, it is clear that the land subsequently converted into residential plots are not open space reserve lands but lands earmarked for community purposes. In the absence of any gift in favour of the local body or any law conferring right in favour of local body, the ownership of the land earmarked for community purposes remains with the layout owner / promoter, who in such a scenario has right to sell the same strictly for community purposes. **Point Nos.(i) and (ii) are answered accordingly.**

Point Nos.(iii) and (iv)

15. In the year 2011 - 2012, Kalapatti Town Panchayat merged with the second respondent - Corporation. Before that, Kalapatti Town Panchayat was governed by the Tamil Nadu Panchayats Act, 1958 and the



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rules framed thereunder and hence, for layout approvals, the Tamil Nadu Panchayat Building Rules, 1970 is applicable. The 1985 layout approval was approved under Rule 3 of the Tamil Nadu Panchayat Building Rules, 1970 by the Director of Town Planning. Thereafter, in the year 1993, the subsequent layout approval converting the land earmarked for community purpose in Survey Nos.796/1 and 797/2 into nine residential plots was granted by the executive officer Kalapatti Town Panchayat. The second respondent - Corporation in their counter has contended that the erstwhile Kalapatti Town Panchayat had no authority to convert land earmarked for community purposes into residential plots. It is apposite to extract Paragraph No.6 of the counter hereunder:

"6. It is submitted that the circular of the Director of Town and Country Planning vide ROC No.24279/88/LA Jan. 1989 requires of the layout promoter to handover the land reserved for public purpose including the one reserved for community purpose. But on the contrary to the above circular, the layout promoter herein failed to handover the area reserved for community purpose. However, the promoter somehow managed to obtain approval to convert the area earmarked for public purpose into 9 residential plots vide permission No.173/93 dated 23.03.1993 from the erstwhile Kalapatty Town Panchayat and subsequently sold them to the



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individual purchasers. It is pertinent to state that the erstwhile Kalapatti Town Panchayat has no power to convert the reserve site into residential plots and the same is invalid and unsustainable in the eye of law."

16. The second respondent did not deny the layout permission accorded vide Permission No.173 of 1993 dated March 23, 1993. Moreover, the writ petitioners in W.P. No.19731 of 2021, namely Gunasekaran and his wife - Renuka, applied for building permission and the same was granted vide Building Permission No.111 of 2008 dated June 10, 2008 by the Executive Officer of erstwhile Kalapatti Town Panchayat. They paid development charges and other charges to the erstwhile Kalapatti Town Panchayat. The local body which is now the second respondent - Corporation assessed property tax and water tax and has been collecting the same since 2019. Electricity service connection was also obtained. Santhi, the writ petitioner in W.P.No.20574 of 2021 has also been paying land tax to the local body which is now the second respondent since 2009. In these circumstances, the second respondent - Corporation who is the successor of erstwhile Kalapatti Town Panchayat cannot deny the act done by his predecessor by their exercising authority, unless the said proceedings were set aside / cancelled as per law. Till date, the second respondent - Corporation has not taken any steps to set-aside /



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cancel the 1993 layout approval and the building permission granted to the writ petitioners in W.P.No.19731 of 2021. Hence, the second respondent - Corporation claiming / deriving right through erstwhile Kalapatti Town Panchayat is estopped from contending contra to the proceedings of erstwhile Kalapatti Town Panchayat. In short, the conversion of the area earmarked for community purposes into residential plots, until cancelled / set aside, holds good.

17. In the absence of gift or provisions of law, the second respondent - Corporation has no right to lay hands on the land earmarked for communal purposes. But the third respondent's right is entirely different. The members of the third respondent purchased the plots in the earlier layout, being drawn to the attractive communal facilities as proposed vide D.T.C.P.'s Layout Approval in LP/R(CPN) No.228 of 1985 and hence, they have a reasonable and valid expectation that such reserved areas continues to be used for the same purpose. Given the rapidly growing population and increasing density, the need for a green space cannot be simply brushed aside. It is essential for recreational purposes and for a social interactions as well. It plays a significant role in children's life, as it supports their overall wellbeing and growth as a social being. Hence, the residents are entitled to question the conversion.



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However, they ought to have done so within a reasonable period of time.

The subsequent layout was formed in the year 1993, and the writ petitioners in W.P. No.19731 of 2021 have constructed a house in 2008. Being in community, they definitely would have got notice of the conversion, at least in the year 2008 when the writ petitioners in W.P.No.19731 of 2021 constructed their house there. Needless to mention that registration of Sale Deed under the Registration Act, 1908 may be regarded as implied notice, but the tangible act of constructing a house is an express notice to all the members of third respondent. Even upon such notice, it could only be said based on the materials available on record that the members did not initiate any action questioning the conversion and chose to sleep on their rights. The third respondent ought to have sought vigilant and purforth their claim within a reasonable period from the date of their knowledge. They have clearly failed to do so. Hence, the claim of the third respondent is not entertainable on the ground of delay and laches. This Court deems fit to state here that the Hon'ble Supreme Court in *State of M.P. v. Bhailal Bhai*, reported in *AIR 1964 SC 1006*, laid down the dictum that the standard of limitation applicable for civil jurisdiction is applicable for writ jurisdiction as well. Relevant extract reads thus:

"21. The learned Judges appear to have failed

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*to notice that the delay in these petitions was more than the delay in the petition made in Bhailal Bhai case out of which Civil Appeal No. 362 of 62 has arisen. On behalf of the respondents-petitioners in these appeals (CAs Nos. 861 to 867 of 1962) Mr Andley has argued that the delay in these cases even is not such as would justify refusal of the order for refund. We argued that assuming that the remedy of recovery by action in a Civil Court stood barred on the date these applications were made that would be no reason to refuse relief under Article 226 of the Constitution. Learned counsel is right in his submission that the provisions of the Limitation Act do not as such apply to the granting of relief under Art 226. **It appears to us however that the maximum period fixed by the legislature as the time within which the relief by a suit in a Civil Court must be brought may ordinarily be taken to be a reasonable standard by which delay in seeking remedy under Article 226 can be measured. The court may consider the delay unreasonable even if it is less than the period of limitation prescribed for a civil action for the remedy but where the delay is more than this period, it will almost always be proper for the court to hold that it is unreasonable. The period of limitation prescribed for recovery of money paid by mistake under the Limitation Act is three years***



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from the date when the mistake is known. If the mistake was known in these cases on or shortly after January 17, 1956 the delay in making these applications should be considered unreasonable. If, on the other hand, as Mr Andley seems to argue, that the mistake discovered much later this would be a controversial fact which cannot conveniently be decided in proceedings. In either view of the matter we are of opinion the orders for refund made by the High Court in these seven cases cannot be sustained."

[Emphasis supplied by this Court]

18. In view of the above, Point Nos.(iii) and (iv) are answered accordingly.

19. That apart, the Registration (Tamil Nadu Amendment) Act, 1997 (TN Act 19 of 1997) came into force on March 29, 1997. Before the said amendment to the Registration Act, 1908, there was no bar to register the document before any Sub-Registrar Office within whose jurisdiction whole or a portion of the immovable property exists. In this case, the extent of 66 cents 635 sq. ft. in Survey Nos.796/1 and 797/2 of Kalapatti Village was purchased along with a very small extent of 2 Cents situate in Kerala vide Sale Deeds dated December 4, 1989. The differential stamp duty and registration fee was paid before the concerned Sub-Registrar in



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Tamil Nadu on November 17, 1995 under Section 19B of Indian Stamp Act, 1899. As the law has been duly complied with, the Sale Deeds cannot be declared invalid in writ proceedings.

20. As far as the second respondent - Corporation is concerned, the writ petitioners cannot be termed as an encroacher in view of the above findings of this Court. As far as the third respondent is concerned their claim cannot be considered due to unreasonable delay.

21. In the result, these writ petitions are allowed in the following terms.

(i).The Writ Petition in W.P.No.19731 of 2021 is allowed and the impugned notice dated August 25, 2021 by the Second Respondent to the Writ Petitioner is quashed.

(ii).The Writ Petitions in W.P.Nos.20574 of 2021 and 18506 of 2022 are partly allowed and the Second Respondent -Corporation shall remove the placards placed in the Writ Petitioner's Property within thirty days from the date of receipt of a copy of this order. Considering the facts and circumstances, the prayers *qua* restoration of fencing in the both the Writ Petitions are dismissed.



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In view of the facts and circumstances of this case, there shall be no order as to costs. Consequently, connected Writ Miscellaneous Petitions are closed.

[M.S.R., J.] [R.S.V., J.]
02 / 12 / 2025

Index : Yes
Neutral Citation : Yes
Speaking Order : Yes
TK/pam



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WEB COPY

To

- 1.The Secretary to Government
Municipal Administration and Water
Supply Department
Secretariat, Fort St. George,
Chennai – 600 009.

- 2.The Commissioner
The Coimbatore Municipal Corporation
Corporation Building,
Coimbatore.



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W.P.NOS.20574 & 19731 OF 2021
AND 18506 OF 2022

M.S.RAMESH, J.

AND

R.SAKTHIVEL, J.

TK/pam

PRE-DELIVERY COMMON JUDGMENT MADE IN
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