

*W.P.(MD)No.27265 of 2024*

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

Reserved On : 21.01.2025

**Delivered On : 28.04.2025**

**CORAM:**

**THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P.(MD)No.27265 of 2024**

**and**

**W.M.P.(MD)Nos.23084, 23086, 23087 and 24025 of 2024**

AIBEA Nagar (Paravai) Residents' Welfare Association,  
Rep. By its Secretary,  
Mr.V.Pitchai,  
S/o.A.Veeran,  
Plot No.396, 3<sup>rd</sup> Street,  
"B" Colony, AIBEA Nagar,  
Paravai, Madurai District.

... Petitioner

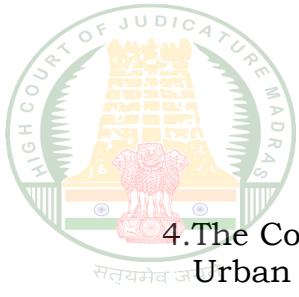
**Vs.**

1.Deleted

(R1 deleted vide Court order dated 14.11.2024, in  
W.P.(MD)No.27265 of 2024 by LVGJ)

2.The Secretary to Government,  
Municipal Administration & Water Supply,  
Department, Government of Tamil Nadu,  
Fort St. George,  
Chennai – 600 009.

3.The Secretary to Government,  
Housing and Urban Development Department,  
Government of Tamil Nadu,  
Fort St.George,  
Chennai - 600 009.



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4.The Commissioner of Town and Country Planning,  
Urban Administrative Office Complex,  
MRC Nagar, Raja Annamalaipuram,  
Chennai - 600 028.

5.The Chairman,  
Madurai Local Planning Authority,  
Inspector of Panchayats and District Collector,  
Madurai District,  
Madurai - 625 020.

6.The Member Secretary,  
Madurai Local Planning Authority,  
Sector 6, Anayur-Mudakathan Main Road,  
Koodal Nagar,  
Madurai - 625 017.

7.The Assistant Director of Town Panchayats,  
District Collectorate Complex,  
Madurai - 625 020.

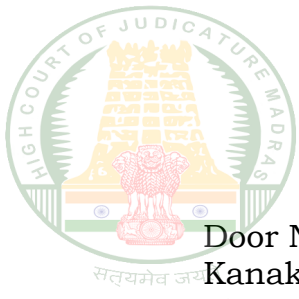
8.The Executive Officer,  
Town Panchayats,  
Paravai,  
Madurai District - 625 402.

9.The Sub Registrar,  
Church Road,  
Vilangudi,  
Madurai District.

10.Selvakumar,  
Executive Officer (Administration),  
Office of the Asst. Director of Town Panchayats,  
District Collectorate Office Complex,  
Madurai - 625 020.

11.P.Venkatesan,  
S/o.Panneerselvam,  
No.350, East 8th Street,  
K K Nagar,  
Madurai - 625 020.

12.K.Muniyandi,  
S/o.Karuppanan,



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Door No.35-C, K.Pethanenthall,  
Kanakankudi, Ladanenthall,  
Thiruppuvanam Taluk,  
Sivagangai District.

13.R.Marithangam,  
S/o.Ramayya Nadar,  
Door No. 15/1, 5th Street,  
MelponNagaram, Arasaradi,  
Madurai 16.

... Respondents

(R12 and R13 are impleaded  
vide Court Order dated 26.11.2024 In  
W.M.P.(MD)Nos.23998 and 24015 of 2024 by LVGJ)

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 1 to 8 to cancel the in-principle regularization of unapproved lay out accorded in 6<sup>th</sup> respondent's proceedings in Na.Ka.No.3663/2019/Mathi2 dated 03.03.2020 and the final approval granted in 8<sup>th</sup> respondent's proceedings in Na.Ka.No. 66/2019 dated 13.05.2020 and re-fence the OSR property falling in petitioner's residential area duly cordoning of and restoring the position, which had been in existence for the last 4 years.

|                                 |                                                                                                                  |
|---------------------------------|------------------------------------------------------------------------------------------------------------------|
| For Petitioner                  | : Mr.B.Saravanan, Senior Counsel<br>For M/s.B.Saravanan Associates                                               |
| For Respondents 2 to 9          | : Mr.Veera Kathiravan,<br>Additional Advocate General<br>Assisted by Mr.D.S.Neduncheliyan<br>Government Advocate |
| For 11 <sup>th</sup> Respondent | : Mr.G.Prabhu Rajadurai                                                                                          |
| For 12 <sup>th</sup> Respondent | : Mr.M.Kannan                                                                                                    |
| For 13 <sup>th</sup> Respondent | : Mr.Ajmal Khan, Senior Counsel<br>For M/s.Ajmal Khan Associates                                                 |

### **ORDER**

This Writ Petition is filed, seeking to direct the respondents 1 to 8 to cancel the in-principle regularization of unapproved layout accorded in the

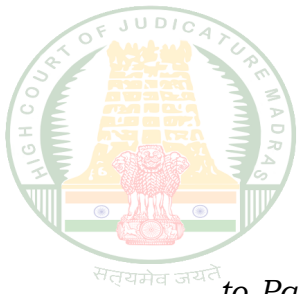


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6<sup>th</sup> respondent's proceedings in Na.Ka.No.3663/2019/Madi 2 dated 03.03.2020 and the final approval granted in the 8<sup>th</sup> respondent's proceedings in Na.Ka.No.66/2019 dated 13.05.2020 and re-fence the OSR property falling in petitioner's residential area duly cordoning and restoring the position which had been in existence for the past 4 years within a time frame fixed by this Court.

2.The petitioner is the Secretary of the “AIBEA Nagar”(Paravai Residents Welfare Association). The AIBEA Nagar consists of two residential blocks, which were duly approved as layouts as sanctioned by the 8<sup>th</sup> respondent way back in 1985/1986 and at the time of formation itself properties were also allocated for Open Space Reservation (OSR purposes). While being so, the 6<sup>th</sup> respondent accorded its in-principle approval in their proceedings in Na.Ka.No.3663/2019/Mathi2 dated 03.03.2020 and the 8<sup>th</sup> respondent granted final approval in their proceedings in Na.Ka.No.66/2019 dated 13.05.2020, regularizing an unapproved residential layout located quite adjacent to the petitioner's residential area in the southern direction in favor of the 11<sup>th</sup> respondent, who is the promoter of the aforesaid layout on 7 conditions. The most significant among all the 7 conditions are as follows:-

*“1.Any high tension and extra high voltage electric line including tower lines lying in any of the plots or layout in part or whole if present, the same should be redrawn along the sides of the pathway/road or should be re-installed in terms of the approved plan of the layout.*

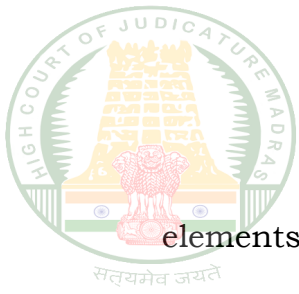


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*2.The land situated to the north of the approved layout belongs to Paravai town panchayat and the promoter should not make use of the said space belonging to Paravai Town Panchayat as pathway and an affidavit is also received from the promoter in this regard, in case of using the said land, the approval of the layout would be cancelled without further notice.*

*3.The said OSR land which has been left out by the promoters of the residential area of AIBEA Nagar is already fenced in all the 4 sides.”*

3.While being so, during September 2024, the 11<sup>th</sup> respondent in a very high handed and illegal manner took the law into his hands and removed the fence in collusion with the 10<sup>th</sup> respondent who was the then Executive Officer of the town panchayat and started laying roads and undertook all other promotional activities in a lightning speed at the OSR site of the petitioner's residential area nakedly violating the specific conditions of approval. The same was immediately brought to the notice of the incumbent Executive Officer of the Paravai Town Panchayat. However, since there was no response, the issue was brought to the notice of the 7<sup>th</sup> respondent and he was met in person and his intervention was sought for to re-fence the site and in the presence of the petitioners, instructions were given to the 8<sup>th</sup> respondent to re-fence the OSR property immediately as the action of the 11<sup>th</sup> respondent was illegal and atrocious. The present Executive Officer, Paravai Town Panchayat, attempted to re-fence the OSR property, but the 11<sup>th</sup> respondent thwarted her attempts by using rowdy



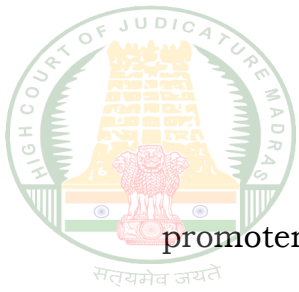
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elements and an extraordinary situation was created and it forced the present Executive Officer of the Paravai Town Panchayat to seek police protection from Samayanallur Police, which was not forthcoming and making use of the situation, the 11<sup>th</sup> respondent laid roads completely and installed lamp posts and undertook other activities.

4. Such illegal developments were brought to the notice of the respondents 1 to 8 by the representations of the petitioner Association dated 12.09.2024, but no response was received from anybody so far and the 11<sup>th</sup> respondent has been given a free hand and was allowed to go ahead scot-free. The petitioners in their representation dated 18.10.2024, submitted to the respondents 1 to 8 further demanded that the regularization of unapproved layout sanctioned in favour of the 11<sup>th</sup> respondent and others be cancelled as the specified conditions contained in the layout approval was violated and for which also, there was no response from any of the respondents. Under such circumstances, this Writ Petition came to be filed.

**Submissions:-**

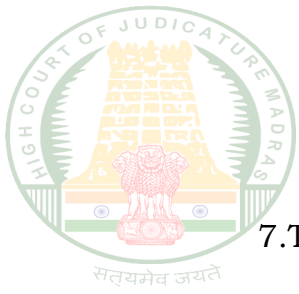
5. The learned Senior Counsel, Mr.B.Saravanan, appearing for the petitioners submitted that, the AIBEA Nagar consisting of two residential blocks is a duly approved layout as sanctioned by the 8<sup>th</sup> respondent way back in the year 1985/1986. 10 percent of the land in the aforesaid layout, namely, AIBEA Nagar, was allocated for the Open Space Reservation by the



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promoters of the said layout and the same is comprised in a total number of 27 plots. Madurai Ramanathapuram District Bank Employees Union is the promoter of the AIBEA Nagar layout. While being so, the promoter in collusion with the 8<sup>th</sup> respondent, that is, the Executive Officer of Paravai Town Panchayat, sold away few properties allotted for Open Space Reservation.

6.In furtherance to that, in an attempt to sell away yet another property covered in the Open Space Reservation, the 8<sup>th</sup> respondent Town Panchayat, passed a resolution in resolution No.105 dated 15.07.1998, despite strong resistance from the residents of the petitioner Association. The said resolution was with respect to the request of the promoters of the AIBEA Nagar for the purpose of converting the area earmarked for school in the approved layout No.267/5/85 dated 07.05.1985, into a community centre and the area earmarked for community centre into a vacant site. The said request was approved and ratified by the said resolution No.105 of the 8<sup>th</sup> respondent Town Panchayat on 15.07.1998. Since the residents of the petitioner association took up the matter up to the first respondent, the first respondent issued a Government Order in G.O.(2Pa)No.141 dated 30.11.2000, by which the layouts in the AIBEA residential area was declared as already approved ones and further directed the 8<sup>th</sup> respondent to sanction the building plans after getting 10% of properties, which was reserved for the Open Space Reservation area purposes.



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7.The learned Senior Counsel categorically submitted that, in the light of G.O.(2Pa)No.141 dated 30.11.2000, immediately the promoters of AIBEA Nagar handed over 17 pieces of land for OSR purposes and thereafter, the 8<sup>th</sup> respondent in their proceedings bearing Na.Ka.No.25/2011 dated 09.11.2012, demanded the promoters to hand over another 10 items of properties for OSR purposes. Challenging the same, the promoters of AIBEA Nagar filed W.P.(MD)No.7245 of 2013 before this Court and the petitioner association got impleaded in the aforesaid Writ Petition as the 2<sup>nd</sup> respondent. Simultaneously, the petitioner association filed yet another petition in W.P.(MD)No.24757 of 2016, challenged the 8<sup>th</sup> respondent's resolution No.105 dated 15.07.1998, by which the 8<sup>th</sup> respondent accepted the request of the promoter and permitted to convert the land allotted for community hall into a vacant site. The learned Senior Counsel further submitted that, during the pendency of the aforesaid Writ Petitions, the Hon'ble Division Bench of this Court by order dated 11.12.2018, directed the 5<sup>th</sup> respondent District Collector to file a comprehensive counter affidavit and ordered status quo until further orders and in its order dated 13.09.2019, the Hon'ble Division Bench further directed the petitioners, that is, the promoter of AIBEA Nagar in W.P.(MD)No.7245 of 2013 to handover the common area allotted for OSR purposes to the local body in the light of the counter affidavit filed by the 5<sup>th</sup> respondent Collector on 18.01.2019.

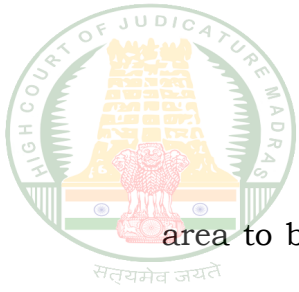
8.The learned Senior Counsel further submitted that, the Writ Petition



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filed by the promoters of AIBEA Nagar in W.P.(MD)No.7245 of 2013 was dismissed as withdrawn and the Hon'ble Division Bench of this Court in W.P.(MD)No.24757 of 2016 filed by the petitioner association passed final orders on 09.08.2023 recording the undertaking given by the learned counsel for the 4<sup>th</sup> respondent promoter of AIBEA Nagar that they will not touch any portion of the land reserved for community hall or for any other public purposes and further disposed of the same by recording that in the light of the said undertaking that the promoter will not indulge in any sale of plot in respect of any portion of the layout which is reserved for community hall or for public purpose. The Court found that no further adjudication is necessary and recording the said undertaking, the Writ Petition was disposed of.

9.The learned Senior Counsel further pointed out that, the 11<sup>th</sup> respondent by the strength of the in-principle approval accorded to his layout by the 6<sup>th</sup> respondent and the final approval accorded by the 8<sup>th</sup> respondent indulge in activities to form a road by violating the specific conditions in proceedings bearing Na.Ka.No.66/2019 dated 13.05.2025. Since it was brought to the notice of the 5<sup>th</sup> respondent District Collector that the 11<sup>th</sup> respondent is trying to put up road by violating the conditions specified in Na.Ka.No.66/2019 dated 13.05.2020, by making use of one of the properties listed in the proceedings of the 8<sup>th</sup> respondent in Na.Ka.No. 25/2011 dated 09.11.2012. The 5<sup>th</sup> respondent promptly directed the said



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area to be fenced vide proceedings in Na.Ka.No.2247/2020/Vu.Va.11 dated 07.09.2020 and accordingly the 8<sup>th</sup> respondent fenced the area in plot No. 116-B on 07.09.2020 and the fence has been intact for the past four years. Pursuant to the fencing of the aforesaid area, one Karthik Raja, at the instance of the 9<sup>th</sup> Respondent, filed a civil Suit in O.S.No.244 of 2020 on the file of the learned IV Additional District and Sessions Judges Court, at Madurai, as against the petitioners herein. Another one Thiru.K.Muniyandi filed a Writ Petition in W.P.(MD)No.4796 of 2022 before this Court, seeking to remove the fence.

10.In the meanwhile, the Revenue Divisional Officer, Madurai, visited the fenced site in Plot No.116B of the petitioner of the AIBEA layout on 05.07.2023 at the instance of the 11<sup>th</sup> respondent, in order to remove the fence and on observing the developments, the 5<sup>th</sup> Respondent and RDO were explained of the position in the instant matter and by the representation of the petitioner association dated 06.07.2023. Yet another Writ Petition in W.P.(MD)No.20809 of 2023 was filed by the 11<sup>th</sup> respondent before this Court in this regard.

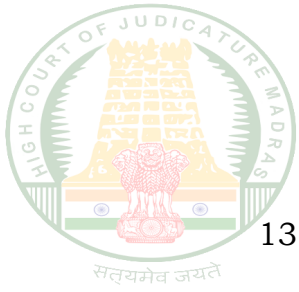
11.During the pendency of two Writ Petitions, that is, W.P.(MD)Nos. 4796 of 2022 and 20809 of 2023, and a civil Suit in O.S.No.244 of 2020, the 1<sup>st</sup> respondent in a very high handed and illegal manner took the law into his own hands and removed the fence in collusion with the 10<sup>th</sup> respondent,



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who was the then Executive Officer of the Town Panchayat and started laying roads and undertook all other promotional activities in a lightning speed at the site nakedly violating the specific conditions of approval made out in the proceedings of the Executive Officer of Paravai Town Panchayat vide Na.Ka.No.66/2019 dated 13.05.2020. Categorically contending that, the 11<sup>th</sup> respondent in no manner of law, has the right to remove the fence and lay roads by encroaching upon the OSR land in plot No.116-B of AIBEA Nagar and said that the same would amount to violation of the conditions in Na.Ka.No.66/2019 dated 13.05.2020 and hence, the 11<sup>th</sup> respondent had violated the said conditions and the approval for his layout which was accorded vide the said proceedings should automatically be cancelled and sought for directing the respondents to cancel the approval of the 11<sup>th</sup> respondent's layout and pressed for allowing the Writ Petition.

12.The learned counsel for the 11<sup>th</sup> respondent submitted that, the Writ Petition is not at all maintainable either in law or on facts. He categorically submitted that, the Writ Petition is an abuse of process of Court as the petitioner's conduct in interfering with the 11<sup>th</sup> respondent's right to enjoy the property in Survey No.161/1A, which is now sub-divided into four portions, namely, Survey Nos.161/1A1A, 1A1C, 1A2 and 1A1B and the same would amount to disobedience of the decree passed in O.S.No.4 of 2009 on the file of the learned Principal District Munsif Court, at Madurai.



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13.He categorically insisted that, the petitioner had made all his submissions on the premise that the layout of AIBEA Nagar has been approved and the same is incorrect and is bordering on falsehood. He pointed out that the petitioner is not even having 10% mandatory vacant land in their layout, which they are required to surrender for OSR purposes to get regularization. He further submitted that, the 11<sup>th</sup> respondent is a property developer and that during the year 2014-2016, he purchased several portions of the properties in Paravai, Bit I Village, and developed a layout by name “Sivathanya”. The said layout is situated within the limits of Paravai Town Panchayat. While being so, the Government came with instructions that it is not sufficient that such layout were to be approved by the Town Panchayat or Panchayat, but by the Town and Country Planning Department in accordance with the provisions of Tamil Nadu Town and Country Planning Act. Hence, the 11<sup>th</sup> respondent made an application to the 6<sup>th</sup> respondent and pursuant to the same, the layout is approved. The said layout is in conformity with the regulations of Town and Country Planning Act and there is no illegality in the grant of approval to the layout and on approval of the layout, the 11<sup>th</sup> respondent started to sell the plots to the individual buyers.

14.He further pointed out that, in between the Sivathanya layout promoted by the 11<sup>th</sup> respondent and the east-west Madurai-Dindigal road lies another layout known as AIBEA Nagar and the said layout is comprised



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of several residential plots and the same was developed by an association of bank employees. However, he categorically contended that, the layout pertaining to AIBEA Nagar is not approved in accordance with the provisions of Town and Country Planning Act. Further, he categorically contended that the portions of such layout got approval from local body, which would not satisfy the requirements of law. The Government Order in G.O.(2Pa)No.141 dated 30.11.2000, which is relied upon by the learned counsel for the petitioner is not an approval for the said layout. It only sets a condition for an approval by the appropriate authority. He categorically contended that, any approval of the layout could be granted only by the Town and Country Planning Department by following the provisions of the Act, Regulation and Government notification and it is needless to mention that the layout approval pertaining to AIBEA Nagar was not at all granted by the Town and Country Planning Department at any point of time.

15.The developer of the said AIBEA Nagar is required to submit a minimum of 10% of vacant site for Open Space Reservation purposes as a precondition to the approval and that the alleged layout of AIBEA Nagar do not have the required 10% open area at all. The present petitioner being an association of plots in the said layout seems to shift the blame upon the developer who is none other than the members of the petitioner association themselves. As far as the subject matter of the present Writ Petition is concerned, the learned counsel pointed out that, there is a land comprised



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in Survey No.161/1A measuring about 0.27 hectares, that is an area of about 68 cents and the same is the subject property of Patta No.1350, Paravai village, Madurai North Taluk. The said property originally belonged to one Tmt.K.Manonmani and the revenue authorities issued Patta passbook in the name of the said Manonmani as per the provisions of Tamil Nadu Patta Passbook Act. He further pointed out that, the said Manonmani, wife of Kannapa Chettiar, purchased the said property under registered sale deed dated 17.06.2005 from one Kalyani Aachi. When the property was purchased under the sale deed, it was a part of the larger extent of land measuring 1.07 acres in Survey No.161/1, which could be correlated to old survey No.151/1. The said Manonmani execute a registered power of attorney document No.1229 of 2014 dated 27.03.2014, with respect to 29 cents and 243 square feet in the southern side of the said property. To the northern side of the above land lies the layout of AIBEA Nagar. The persons owning house sites in the said layout have formed themselves into an association who are the petitioners herein this Writ Petition. The petitioner's layout being an unapproved layout when they sought to regularize the said layout, they were put to condition to surrender 10% of the said area, which is reserved for OSR purposes.

16.The learned counsel categorically contended that, to the knowledge of the 11<sup>th</sup> respondent, the said vacant land to the extent of 10% is not at all available in the said AIBEA Nagar to be handed over to the competent



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authorities. He further pointed out that, while the petitioner association attempted to encroach into the land of the said Manonmani comprised in survey No.161/1A measuring 70.5 cents claiming to be plot No.116B of AIBEA Nagar, the said Manonmani filed a civil suit in O.S.No.4 of 2009 before the learned District Munsif Court, at Madurai, against the petitioner association and the house building society for injunction in respect of the aforesaid property as well as the adjacent property bearing comprised in Survey No.134/43. The said suit was contested by the petitioner association and after an elaborate trial, the learned District Munsiff Court, by judgment dated 23.12.2010, decreed the suit in favour of the said Manonmani. The petitioner association having not preferred an appeal as against the same for the past more than 14 years, the decree became final.

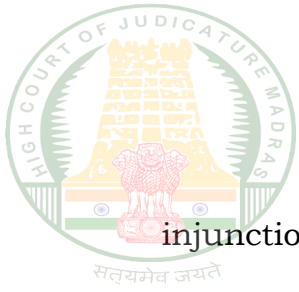
17.The learned counsel further submitted that, pursuant to the agreement between the 11<sup>th</sup> respondent and the said Manonmani, a layout comprising house sites was prepared in respect of the land, by name, Sivathanya layout, and that portion shown as road passing through the said survey No.161/1A was gifted to the 8<sup>th</sup> respondent through a gift deed dated 31.05.2016. In pursuance thereof, the land in Survey No.161/1A was further subdivided into four portions, namely, Survey No.161/1A1A measuring 38.68 cents, Survey No.161/1A1C measuring 1.7 cents, Survey No.161/1A2 measuring 18.6 cents and Survey No.161/1A1B measuring 8.8 cents. The first two Survey Numbers were retained by the said Manonmani



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and the third Survey number was sold to one Karthik Raja and the fourth Survey No.161/1A1B is delineated as road belonging to the 8<sup>th</sup> respondent and separate patta has been issued in respect of all the said four Survey Numbers, which were sub-divided from Survey No.161/1A in favor of the respective owners. While being so, when the Government announced scheme for regularization of unapproved layout, the 11<sup>th</sup> respondent submitted the layout namely, Sivathanya, to the 8<sup>th</sup> respondent and the same was approved under No.4/2020 dated 15.03.2020. The access to Sivathanya layout, which is being promoted by the 11<sup>th</sup> respondent from Madurai-Paravai east-west main road is from the northern side passing through the layout of the petitioner association.

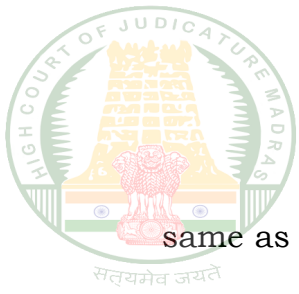
18.The layout pertaining to Sivathanya as well as the layout pertaining to AIBEA Nagar is prepared in such a way that the south-north road of Sivathanya layout would touch the south-north road in the layout of the petitioner association. He further submitted that, in November 2021, all of a sudden, the 8<sup>th</sup> respondent put up a fence obstructing the said roads, thereby completely blocking the access to the Sivathanya layout. The purchasers of Sivathanya layout sent representations to the 8<sup>th</sup> respondent to remove such obstruction. Since the same was not heeded to, the vendor of the 11<sup>th</sup> respondent, namely, Tmt.K.Manonmani, filed a Writ Petition through the 11<sup>th</sup> respondent in the capacity of Power of Attorney in W.P. (MD)No.20809 of 2023, stating that such fence would be a contempt of the



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injunction order passed by the learned District Munsif Court in O.S.No.4 of 2009. The said Writ Petition was entertained and notice was issued and on receipt of the notice, the eighth respondent removed the fence and presently, there is no disturbance for the ingress and egress to the land of the 11<sup>th</sup> respondent. The land that was gifted by the 11<sup>th</sup> respondent to the respondent Paravai Town Panchayat for the purpose of road is delineated in Survey No.161/1A1B and reserved as a road in the revenue records. The said property, being a road, is to be developed as a road at the expense of the developer of the land. As such, the road is being laid by the 11<sup>th</sup> respondent in Survey No.161/1A1B, which is classified as a road in revenue records.

19.The learned counsel contended that, it is the duty of the 11<sup>th</sup> respondent as a developer and that the 11<sup>th</sup> respondent and any public have every right to use it as a road, since it is classified as a road in the revenue records. He further reiterated that, the said property admittedly owned by the 11<sup>th</sup> respondent and his predecessor in title, Manoharmani, being part of a larger extent in Survey No.161/1A measuring about 70.5 cents got an injunction as against the petitioner association restraining them from interfering with the peaceful possession of the said larger extent of the land including the land donated to the 8<sup>th</sup> respondent Paravai Town Panchayat for the purpose of road. However, by virtue of the gift deed executed in favour of the 8<sup>th</sup> respondent Paravai Panchayat and classification of the

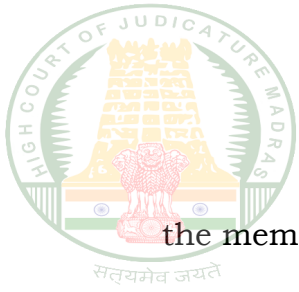


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same as road, the said smaller extent in Survey No.161/1A1B has become a road and the same has to be used by both the plot owners in Sivathanya layout as well as the members of the petitioner association or any public.

20.The 11<sup>th</sup> respondent being the developer and donee is expected to provide the road in the said bit of land. He pointed out that, a perusal of the alleged layout of the petitioner association shows that, its north-south road ending in the Sivathanya layout is only to a width of about 20 feet at the southern side. The regulations of the Town Panchayat would not permit such a narrow road and the portion now gifted by the 11<sup>th</sup> respondent in Survey No.161/1A1B is only for the purpose of broadening the said 20 feet into a 40 feet road. Needless to state that the same would be beneficial both to the members of Sivathanya layout and to the members of the petitioner association and also to the common public.

21.Pointing out that the members of the petitioner association are carrying a super ego and that they do not want the plot owners in any other layouts to pass through the road running in between their plots, the learned counsel categorically contended that, such a mentality is illegal and against the spirit of Town Planning Act and the Regulations made therein. Hence, out of malice, the petitioner association has come forward with the present Writ Petition though the portion gifted by the 11<sup>th</sup> respondent in Survey No. 161/1A1B would broaden the road from 20 feet to 40 feet to the benefit of



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the members of both the layouts respectively.

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22.The learned counsel further pointed out that, the condition as stated in the order dated 13.05.2020, is misinterpreted and misleading. Admittedly and indisputably, there is no land belonging to the Town Panchayat situated in the northern side of Sivathanya layout. The writ petitioner cleverly has not stated any survey number of such land of the 8<sup>th</sup> respondent Panchayat. However, it is the 11<sup>th</sup> respondent, who gifted a portion of his property to the Town Panchayat, which is now delineated and classified as Survey No.161/1A1B. The gift deed clearly refers that the land is to be used for road exclusively. The classification in the revenue records has also shown the land as road. It is only to assert such fact that a portion in the northern side is gifted to the Panchayat for road.

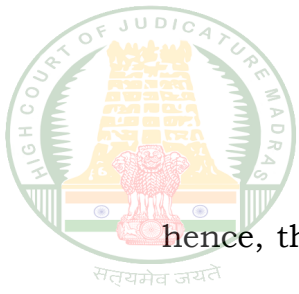
23.The learned counsel submitted that, the same cannot be misinterpreted and the same cannot be taken advantage of by the petitioner association. Pointing out that neither the petitioner in his affidavit nor the 8<sup>th</sup> respondent Town Panchayat in their oral submissions before this Court on 19.11.2024, stated the exact description of the land which belongs to the 8<sup>th</sup> respondent Town Panchayat, if at all any land is pointed out, it would be none other than the land which has been gifted by the 11<sup>th</sup> respondent for the purpose of road comprised in Survey No.161/1A1B, which is classified as road in the revenue records as well. Categorically contending that,



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neither the petitioner association or the 8<sup>th</sup> respondent Town Panchayat has any right to prevent the 11<sup>th</sup> respondent from using the said portion as road, the learned counsel pressed for dismissal of the Writ Petition.

24.The learned Senior Counsel appearing for the 13<sup>th</sup> respondent who got impleaded in this Writ Petition submitted that, the 13<sup>th</sup> respondent is one of the purchasers, who purchased plot from the 11<sup>th</sup> respondent in the Sivathanya layout. Pointing out that the relief sought for in this Writ Petition is to cancel the approval of the Sivathanya Layout, the learned Senior Counsel submitted that, the Writ Petition is filed on the premise that the 11<sup>th</sup> respondent has violated the conditions of approval. Categorically contending that, condition number 3 was as to the property which lies north of the Sivathanya layout which belong to the local body should not be used as pathway, the learned counsel submitted that the said condition is bereft of the details, such as survey number and area of the said property which is not mentioned in the condition by the local body. Pointing out that the learned Senior Counsel for the petitioner association relying upon the proceedings in Na.Ka.No.66 of 2019 dated 13.05.2020, which is the proceedings of the 8<sup>th</sup> respondent Town Panchayat, the learned Senior Counsel submitted that, the entire case of the petitioner association rests in their claim that the place where the 11<sup>th</sup> respondent is now laying a road is the property which lies to the north of the layout of the 11<sup>th</sup> respondent which is mentioned in the third condition of the aforesaid proceedings and



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hence, there is a violation of condition of approval and on that premise, the petitioner association is seeking for the cancellation of the approval granted by the local body to the 11<sup>th</sup> respondent.

25.The learned Senior Counsel categorically submitted that, at the first instance the Writ Petition is not at all maintainable solely for the reason of suppression of material facts and should not be heard for the said reason alone. He further submitted that, the property that is a subject matter of condition no.3 according to him is the property which is a subject matter of the suit in O.S.No.4 of 2009 on the file of the learned District Munsif Court, at Madurai, and that property belonging to a third party was shown as OSR in the layout of the petitioner association. He further categorically contended that, the promoters of the AIBEA Nagar have got approval of the same by showing the property belonging to a third party as OSR. Only in view of the said disturbances, the original owner of the said land one Manonmaniam instituted a suit against the petitioner association. Having not stated the details of the said suit in the affidavit and in the presence of a decree, which would stare at the petitioner association, had the Petitioner Association at the time of admission shown the aforesaid judgment and decree, this Court would not have granted any interim order because the petitioner association has already suffered a valid decree before the competent civil court and completely suppressing the said fact the Writ Petition has been filed and hence on that ground itself, the petitioner association is not entitled to any



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relief. Relying upon the judgment of the Hon'ble Apex Court in **K.D.Sharma vs Steel Authorities Of India Limited and Others<sup>1</sup>**, paragraph nos.34 to 38, the learned Senior Counsel submitted that, the Writ Petition is liable to be thrown out on the ground of suppression of material facts.

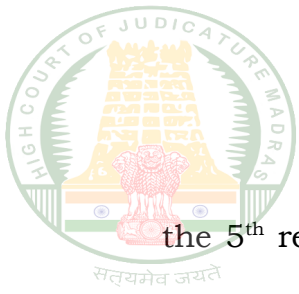
26.He also pointed out that another judgment of the Hon'ble Apex Court in **State of Orissa & Anr v. Laxmi Narayan Das (Dead) thru LR's & Orthers<sup>2</sup>** and paragraph nos.37 to 48 would be relevant in the facts and circumstances of the instant case for the same to be dismissed in limine. The learned Senior Counsel pointed out that, AIBEA represented by its then President one Pitchai was the first defendant in O.S.No.4 of 2009 and the same Pitchai has now preferred this Writ Petition on behalf of AIBEA residents. Hence, it is not that the Writ Petition has been filed without the knowledge of the entirety of the judgment and decree passed by the learned District Munsif Court, Madurai, in the aforesaid civil suit, but it is a wanton act of suppression of material facts while bringing this Writ Petition for admission before this Court. He further pointed out that, this Writ Petition is filed in collusion with the 8<sup>th</sup> respondent Executive Officer and the counter affidavit filed by the 8<sup>th</sup> respondent would be suffice to prove the same.

27.Categorically submitting that, the claim of the petitioner association is that, the portion of OSR is already fenced on the direction of

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1 2008 12 SCC 481

2 2023 15 SCC 273



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the 5<sup>th</sup> respondent, the learned Senior Counsel lamented that, he is at loss to understand how the respondent authorities are entitled to fence the OSR portion which is meant for usage by the public and he further pointed out that the public land cannot be fenced either by the petitioner or by the local body and it cannot be done by all means. He further reiterated that, once the land is given either as OSR or otherwise as a whole, the same is being held by the respondent authorities in public interest and everybody is entitled to use it. Neither the local body nor the writ petitioner is entitled to prohibit the same. The learned Senior Counsel drew my attention to a circular issued by the Director of Town and Country Planning, which mandated that there cannot be any closed layout without any access to it. Relying upon the same, the learned Senior Counsel submitted that the case of the petitioner is not sustainable and pressed for dismissal of the Writ Petition.

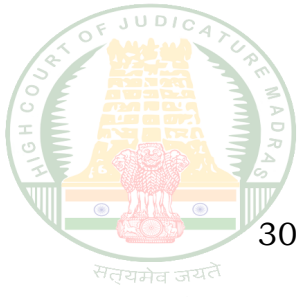
28.The learned counsel Mr.Kannan appearing for the 12<sup>th</sup> respondent who is impleaded during the pendency of this Writ Petition demonstrated the various aspects of the facts-in-issue relying upon the paper book submitted by him before this Court. Interestingly, he pointed out the way in which the various plots pertaining to the layout of the petitioner association was approved. The learned counsel pointed out that the layout plan of house sites comprised in R.S.No.136/6, 137/1B of Paravai Village Madurai-North Taluk, dated 22.04.1985 consist of 6 house sites. The layout plan dated



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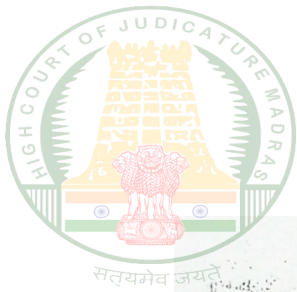
26.04.1985, with respect to the house sites comprised in R.S.No.169/2, 3 consists of 6 plots. The layout dated 30.04.1984 of house sites comprised in R.S.No.160/3A, 3B, 2B; 159/4A, 4B of Paravai - Madurai North Taluk, consists of 9 plots. The layout plan dated 07.05.1985 comprised in R.S.No. 151/1, 2B, 2C, 2D of Paravai - Madurai North Taluk, consist of 10 plots. The layout plan dated 15.05.1985 comprised in 160/2A, 3A of Paravai - Madurai North Taluk, consist of 9 plots. The layout plan of house sites comprised in Survey No.163/4 part of Paravai - Madurai North Taluk, consist of 8 plots.

29.The learned counsel pointed out that, juxtaposing the layout plan of house sites produced in page no.1 of the paper book filed by the 12<sup>th</sup> respondent and the layout plan of house site produced by the petitioner in the additional paper book dated 07.12.2024 in page 1 with respect to AIBEA layout would throw light on the fact that giving the number 116B and 116A to the various plot numbers allotted for the OSR purposes of AIBEA Nagar would not match to the plan produced by the 12<sup>th</sup> respondent and it would be self evident to the fact that the numbers 116A and 116B are conspicuously absent in the plans dated 22.04.1985, 26.04.1985, 30.04.1985, 07.05.1985 and 15.05.1985 as produced by the 12<sup>th</sup> respondent. That would suffice to prove that the numbers 116A and 116B has been included by the petitioner for the purpose of this Writ Petition.



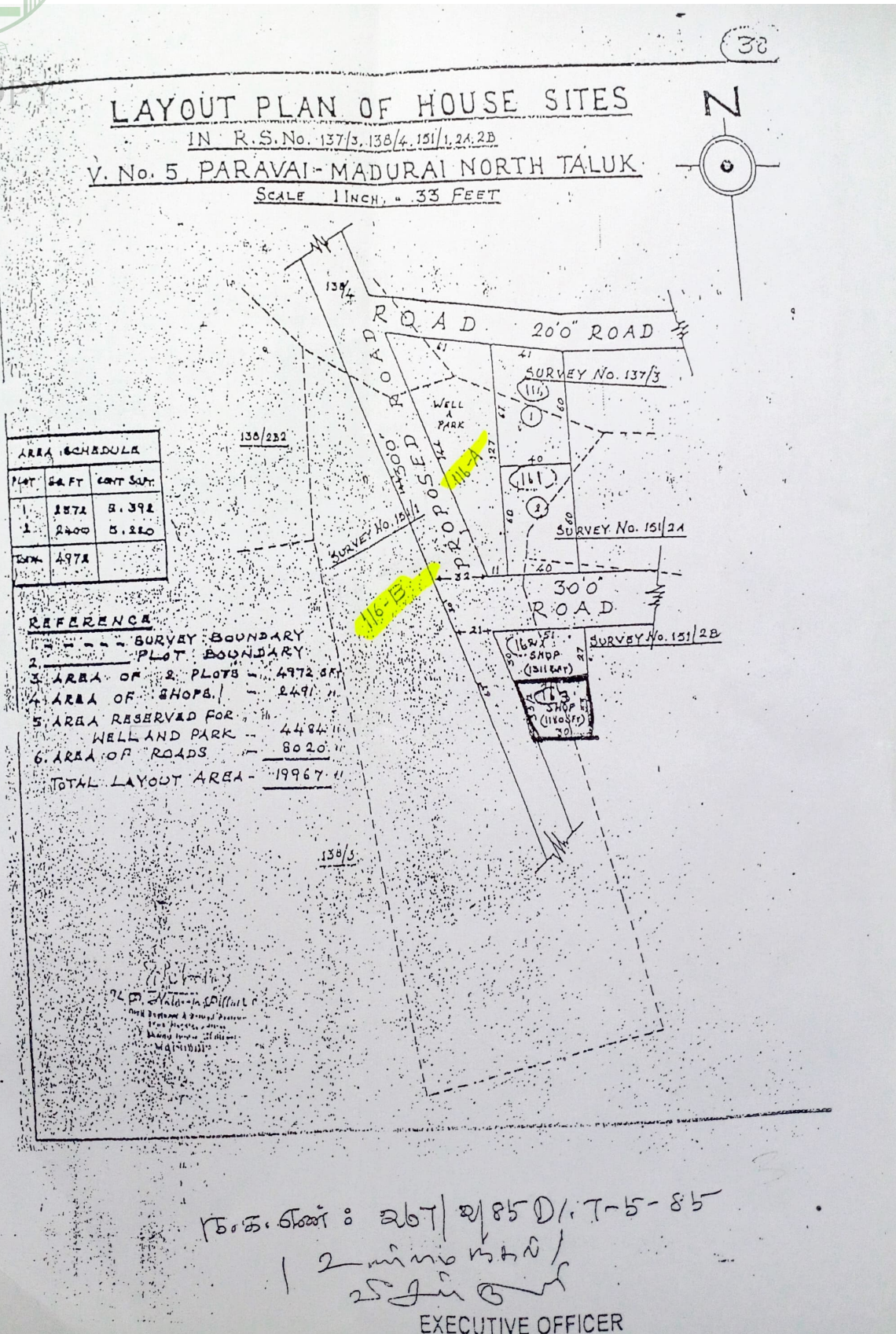
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30.For the sake of clarity, this Court is inclined to extract the said plans as produced by the 12<sup>th</sup> respondent in page 1 of his paper book as follows:-



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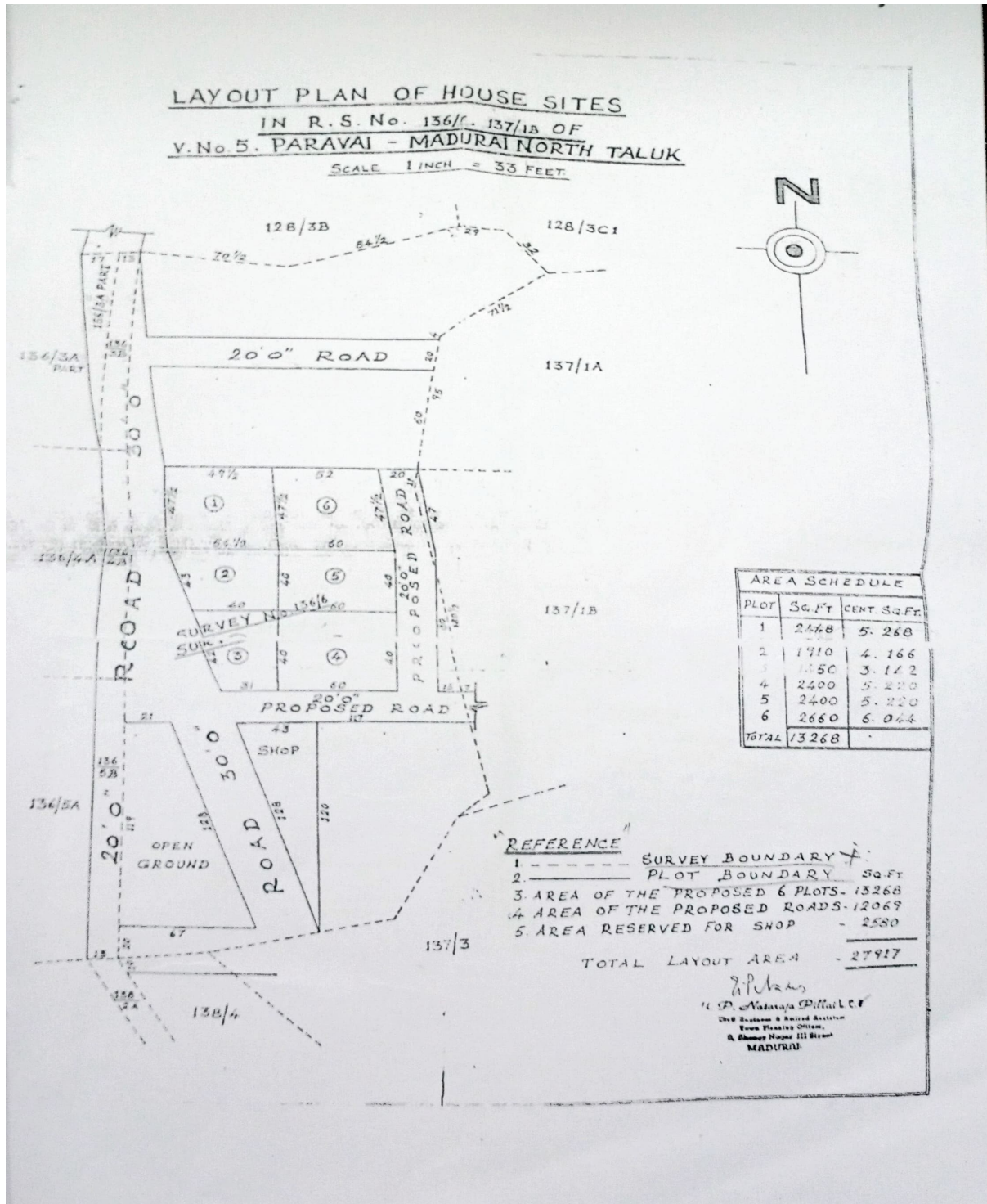
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31.The plan produced by the writ petitioner in additional type set of paper dated 07.12.2024 in page 1 as follows:-





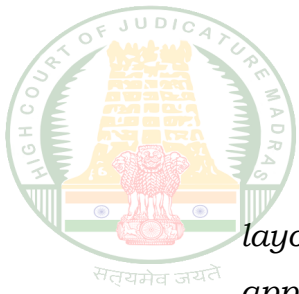
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32.The entire property comprising the various plots in the AIBEA Nagar layout were promoted by the promoters of the aforesaid layout in a piecemeal manner with 8 to 10 plots from time to time and there is no comprehensive layout plan of AIBEA Nagar since the 10 percentage of OSR has not been so far handed over to the competent authorities, as a result of which the same remained as an unapproved layout so far. Hence, the learned counsel categorically contended that, the plot No.116A and B, which is allotted for OSR is exactly the area which lies to the north of Sivathanya layout cannot be admissible on any basis and pressed for dismissal of the Writ Petition.

33.The Executive Officer of the Paravai Town Panchayat, Madurai district, has filed his counter affidavit dated December 2024 before this Court and para nos.7, 8, 9, 10, 11 and 12 of the same are extracted as follows:-

*“7.I respectfully submit that the one Balamurugan along with 7 others including the 11th Respondent herein had applied for regularization of layout in S.No's. 135/4,138/5B, 161/4,163/1,2A, 2B, 2C,5,6A located at Ward-7(Now ward-14), AIBEA Nagar, Paravai Bit 1 village, North Taluk, Madurai on 20.06.2019. The 5th Respondent herein vide his proceedings in Na.Ka.No. 3663/2019/Mathi2, dated 03.03.2020 has granted in-principle approval following which the 8th Respondent vide her proceeding in No.66/2019, dated 13.05.2020 has regularized the unapproved*



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layout with conditions and also after receiving undertaking from the applicant that in case of raise of any dispute regarding pathway, the decision of the 8th Respondent decision would be final.

8.1 respectfully submit that on 18.08.2020 vide inspection the 8th Respondent came to know that an OSR land in old. S.No. 138,150 (New S.No. 161/1A2,161/1A1B) handed over to the Municipality has been encroached. Hence, immediately on 19.08.2020 the 8th Respondent sent a notice to Balamurugan to stop using the OSR lands and not to violate the conditions imposed in the regularization order.

9.I respectfully submit that after on 17.05.2020, the 5th Respondent vide his proceedings in Na.Ka.No.23247/2020/Vu.Va.11 instructed the 8th Respondent to fence the OSR lands to prevent encroachment. At this Juncture, one K. Muniyandi (impleaded as 12th Respondent in this writ petition) has objected the fencing of the OSR lands made in Plot. 116B by way of representation dated 15.11.2021 and the same was rejected on merits vide 8th Respondents proceedings in Na.Ka.No.305/2021 dated 30.11.2021. Against the said rejection order the 12<sup>th</sup> Respondent had filed a writ petition in WP(MD)No.4796/2022 and one Manonmani through her power agent, the 11th Respondent herein has also filed WP(MD) No.20809/2023 before this Hon'ble Court and same is pending till date. And one S.Karthick Raja, who is a purchaser has also filed suit for mandatory injunction to remove the fence in O.S.No.244/2020 on the file of the IV Additional District Court, Madurai and same was withdrawn as infructuous.

10.1 respectfully submit that pending above writ petitions against fencing the OSR lands, the 11th Respondent herein using rowdy elements has removed the fencing and started laying road in the OSR space. The 8<sup>th</sup> respondent has tried to put up the fence back but the 11<sup>th</sup> respondent along with rowdy elements threatened the 8<sup>th</sup>



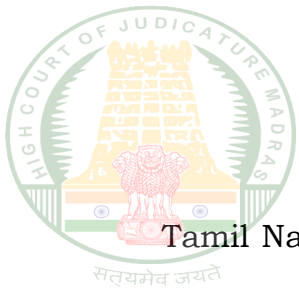
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respondent. On 05.09.2024, the 8<sup>th</sup> respondent vide his letter in Na.Ka.No.215/2021 to the Inspector of Police, Samayanallur Police Station sought for police protection to fence the OSR lands. But due to the Vinagayarchathurthi event the police has asked the 8<sup>th</sup> respondent to wait for some time.

11.1 respectfully submit that further the Inspector of Police Samayanallur police station has registered an CSR No.670/2024 dated: 18.09.2024 and called the 11th Respondent for enquiry. After conducting preliminary enquiry the police officials denied to give police protection to the 8<sup>th</sup> Respondent to fence the OSR lands citing the Injunction decree obtained by the Manonmani in O.S.No.4/2009 on the file of the District Munsif Court, Madurai.

12.I respectfully submit that the above mentioned decree in O.S.No.4/2009 on the file of the District Munsif Court, Madurai will not bind the 8<sup>th</sup> Respondent, since it is a decree injunctiong the petitioners from interfering with the possession of the Manonmani and her agent the 11th Respondent. The question of handing over the OSR land was not the subject matter of the above suit and the 8<sup>th</sup> Respondent was not party to the suit. Hence, fencing the OSR land was not decided in the suit.”

34.Interestingly, the learned Additional Advocate General appearing for the respondents 2 to 8 submitted contrary to the pleadings of the 8<sup>th</sup> respondent's counter affidavit, the learned Additional Advocate General categorically contended that, this is an interesting case of mischief by all, more particularly the petitioner association and the 11<sup>th</sup> respondent. He fairly pointed out that, AIBEA Nagar is an unapproved layout approved by the Town Panchayat and not by the Town Planning Authority in terms of the

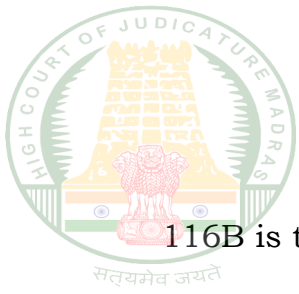


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Tamil Nadu Town and Country Planning Act, 1971. All the lands pertaining to AIBEA Nagar stands in the name of private individual purchasers. AIBEA Nagar not being an approved layout in the presence of roads and public pathways, all the individual purchasers have been approaching the Government seeking to regularize their unapproved layouts.

35.Hence, the Government considering the fact that several public are residing there as an one time measure issued G.O.(2P)No.141 dated 30.11.2000, facilitating the approval of AIBEA Nagar by laying a condition that the petitioner association should surrender 10% of the area for Open Space Reserve (OSR) and on handing over of 10% of the total area of AIBEA layout as OSR to the Town Panchayat Paravai, those portions of layout which has already been approved by the Paravai Town Panchayat could be regularized subject to other conditions thereby permitting building permissions as well. Following which, by proceedings in Na.Ka.No.25/2011 dated 09.11.2012 the Paravai Town Panchayat sought for 10% of the OSR lands earmarked by the promoters of AIBEA Nagar, pointing out 17 plots which have already been handed over to the Paravai Town Panchayat and 10 plots, which are yet to be handed over to the Town Panchayat for the purpose of facilitating approval of the said layout.

36.The learned Additional Advocate General fairly pointed out that, the land consisting of 37,900 square feet in serial No.5 shown as plot No.



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116B is the land around which fence has been put up on the direction of the 5<sup>th</sup> respondent Collector. However, he significantly made it clear that, the aforesaid land was not handed over to the 8<sup>th</sup> respondent Town Panchayat Paravai Town Panchayat so far by executing a gift deed in favour of the said Town Panchayat. Challenging the said proceeding in Na.Ka.No.25/2011 dated 09.11.2012, the promoter of the AIBEA Nagar layout filed a Writ Petition in W.P.(MD)No.7245 of 2013 before this Court. Simultaneously, the writ petitioners herein also filed yet another Writ Petition in W.P.(MD)No. 24757 of 2016 challenging resolution No.105 dated 15.07.1988 passed by the 8<sup>th</sup> respondent Town Panchayat permitting the promoters of AIBEA layout to convert the land earmarked for community hall into a vacant site. Both the Writ Petitions were taken up together by the Hon'ble Division Bench of this Court, in which the 5<sup>th</sup> respondent Collector had filed his counter affidavit dated 18.01.2019. The learned Additional Advocate General drew my attention to para 14 of the aforesaid counter affidavit filed by the 5<sup>th</sup> respondent Collector before the Hon'ble Division Bench of this Court and for better appreciation, the said paragraph is extracted as follows:-



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14. I have herewith produced the Lay out Plan of House sites in "AIBEA Nagar" wherein the various plots to the extent of Acre 1 cents 12 which had been already handed over to the Paravai Town Panchayat are shown in Yellow colour and the plots allotted for common purpose to the extent of Acre 1 cents 48 which had not been handed over by the said Association to the Paravai Town Panchayat are shown in Blue colour. However the plots allotted for common purpose to the extent of Acre 1 cents 48 are still vacant which is shown below.

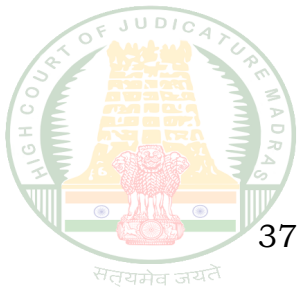
| SI No | to be handed over places<br>Survey No | Plot No | Extent in Sq ft.         |
|-------|---------------------------------------|---------|--------------------------|
| 1     | S No 160                              | 32B     | 19958                    |
| 2     | S No 136                              | 44      | 2580                     |
| 3     | S No 136                              | 61      | 864                      |
| 4     | S No 138, 150                         | 116B    | 37900                    |
| 5     | S No 138                              | 162     | 1311                     |
| 6     | S No 152                              | 281     | 1785                     |
| Total |                                       |         | 64398 (or)<br>1.48 Acres |

The lands already handed over to Paravai Town Panchayat which is shown below.

| SI No | Already handed over places<br>Survey No   | Plot No         | Extent in<br>Sq ft.       |
|-------|-------------------------------------------|-----------------|---------------------------|
| 1     | 138/4 & 139/6                             | 317/A           | 771                       |
| 2     | 152/1 UDR                                 | 317             | 1200                      |
| 3     | 152/1 UDR & 158/1                         | 316             | 1432                      |
| 4     | 137/2A, 2B, 2C, 2F, 2G, 2H, 2I UDR 148/2F | 32/A<br>(Kovil) | 3058                      |
| 5     | 137/2A, 2B, 2C, 2F, 2G, 2H, 2I UDR 148/2F | 32              | 1444                      |
| 6     | 139/1, UDR 140/1A                         | Park<br>402/A   | 10586                     |
| 7     | Old Survey No.-151/7 UDR No. 161/7        | 233             | 1365                      |
| 8     | Rs.No.157/7, 158/1 UDR 5                  | 234             | 1050                      |
| 9     | 151/7 UDR 161/7                           |                 |                           |
| 10    | 138/4, 139/6                              | 280A            | 490                       |
| 11    | 138/4, 139/6                              | 429B            | 8158                      |
| 12    | 137/3, 138/4, 151/1, 2A, 2B UDR 161/2A    | 429A            | 4092                      |
| 13    | 137/3, 138/4, 151/1, 2A, 2B               | 163             | 1180                      |
| 14    | 151/5, 161/5C                             | 116A            | 4484                      |
| 15    | 151/5, 161/5 UDR 151/6, 161/6             | 273A            | 1344                      |
| 16    | S.No.135/3 UDR No.141/3                   | 277             | 2132                      |
| 17    | 136/6 UDR 147/6A                          | 353/A           | 576                       |
| Total |                                           |                 | 44A<br>5434               |
|       |                                           |                 | 48796<br>(1 Acre 12 Cent) |

Assistant Secretary  
Madurai Zone, Madurai-20

COLLECTOR  
MADURAI



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37.The learned Additional Advocate General submitted that the said paragraph would also make it clear that plot No.116B, consisting an extent of 37,900 square feet comprised in Survey Nos.138 and 150 of Paravai Village, Madurai-North Taluk, was not handed over to the 8<sup>th</sup> respondent Panchayat by the promoter of the AIBEA Nagar layout. The learned Additional Advocate General fairly conceded that, the fact that the writ petitioner association has suffered a judgment and decree in O.S.No.4 of 2009 on the file of the learned District Munsif Court, at Madurai. He further pointed out that, as far as the property comprising an area of 24 cents land comprised in R.S. No.132/4, 70.500 cents land comprised in resurvey No. 151/1 comprising a total area of 86.500 cents land of Paravai Village, Madurai-North Taluk, in which the learned Trial Court had passed an order of injunction, restraining the petitioner Association from interfering with the peaceful enjoyment and possession of the title holder, that is, Tmt.Manonmani, with respect to the aforesaid property by concluding that the suit property comprised in resurvey No.151/1 and 132/4 of Paravai Village, Madurai-North Taluk, absolutely belong to the plaintiff Manonmani and the same had been in her exclusive possession and title and as such, the defendant association, that is, the petitioner association herein was thereby restrained by means of a permanent injunction by the learned Trial Court.

38.The learned Additional Advocate General fairly conceded that, the



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petitioner association did not bring to the notice of the Hon'ble Division Bench of this Court during final hearing in W.P.(MD)No.7245 of 2013 and W.P.(MD)No.24757 of 2016 as to the fact that, they have suffered the judgment and decree of the learned District Munsif Court in O.S.No.4 of 2009 at any point of time. It is only after the filing of the present Writ Petition, it is brought to the notice of the respondent authorities as to the factum of the judgment and decree passed by the learned District Munsif Court, Madurai, in O.S.No.4 of 2009. The learned Additional Advocate General pointed out that, having suffered a judgment and decree in the aforesaid civil suit the promoter of AIBEA layout had handed over a portion of the subject matter of the suit property in O.S.No.4 of 2009, that is, the absolute property belonging to Manonmani, which was later gifted by the 11<sup>th</sup> respondent in the capacity of Power of Attorney to the 8<sup>th</sup> respondent Panchayat as OSR land to the 8<sup>th</sup> respondent Panchayat. On the basis of the said argument, the learned Additional Advocate General submitted that, the only way out for the respective parties, that is, the 11<sup>th</sup> respondent as well as the petitioner association is to approach the competent civil court for further remedy and pressed for dismissal of the Writ Petition.

**Analysis:-**

**The tale of the AIBEA Nagar:-**

39.The petitioner Association is represented by its Secretary, which is functioning for the past 26 years, since 1999, catering to the needs and



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welfare of the people living in AIBEA Nagar. AIBEA Nagar was promoted by Madurai Ramanathapuram District Bank Employees Union bearing registered No.3341. Though the petitioner Association claims that AIBEA Nagar consists of two residential blocks, which are duly approved layouts sanctioned by the 8<sup>th</sup> respondent, way back in the year 1985/1986, the various layout plan of house sites in various survey numbers in Paravai village - Madurai North Taluk, dated 22.04.1985, 26.04.1985, 30.04.1985, 07.05.1985 and 15.05.1985, would reveal that the house sites of AIBEA Nagar were approved by the 8<sup>th</sup> respondent Paravai Town Panchayat, step by step with respect to the various bits and parcels of land for which layout plan of house sites were submitted during 1985/1986, in a piece-meal manner.

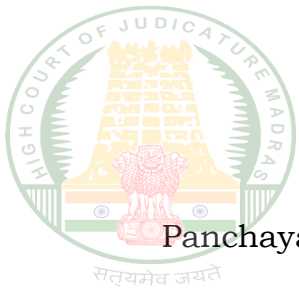
40.The sequence of the facts and events put forth by the writ petitioner as well as the various respondents before this Court would reveal that, from the very instance of the promotion of the said AIBEA Nagar layout, disputes arose even between the promoter as well as the residents of AIBEA Nagar with respect to allocation of properties for Open Space Reservation purposes. On 15.07.1988, at the instance of the promoter of AIBEA Nagar layout, namely, Madurai Ramanathapuram District Bank Employees Union, the 8<sup>th</sup> respondent Panchayat in its emergency Council meeting passed a resolution bearing No.105 on 15.07.1988, permitting to convert the land in AIBEA Nagar earmarked for school in the layout



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approval No.267/5/85 dated 07.05.1985 into community hall and the area earmarked for community hall in the layout approval No.267/4/85 dated 07.05.1985 into house sites. The Government through its Department of Municipal Administration and Water Supply issued a Government Order in G.O.(2P)No.141 dated 30.11.2000, issuing directions with respect to the regularization of AIBEA Nagar layout situated at Paravai village, Paravai Town Panchayat.

41.A careful perusal of the aforesaid G.O. would reveal that, pursuant to the letter of the then Secretary of the petitioner association dated 10.05.2000, the letter of the Deputy Director Town Panchayat, Madurai district, dated 13.07.2000, letter dated 01.11.2000 written by the Special Commissioner Town and Country Planning, Government letter dated 30.02.2000 and 08.01.2000 and G.O.Ms.No.79 dated 16.06.2000 and G.O.Ms.No.130 dated 03.06.1999, the said G.O.(2P)No.141 dated 30.11.2000, came to be issued by the Government. Based on the report of the Assistant Director of Town Panchayat, Madurai district, which reported that the entire area of AIBEA Nagar layout is situated in a total area of 26 acres, of which approval of the Town Panchayat has been obtained in bits and parcels and those areas which were allotted by the promoters for public purposes are still in the control and maintenance of AIBEA Nagar residential association and the same has not been handed over to the respective Town Panchayat by effectively executing necessary gift deeds in favour of the Town



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Panchayat and that at least 70 houses have already been built in the said area, the Government advised the Director of Town Panchayats as follows:-

*“I.Though the Town Panchayats do not possess authority to approve layout plan of house sites, the various layout plan of house sites situated in AIBEA Nagar at Paravai Town Panchayat has already been approved by the Paravai Town Panchayat and since road, drinking water tank, street lamps and other basic amenities has already been provided to the said residential area by the Paravai Town Panchayat, the said layout cannot be considered as the one for which approval has not been granted as of now.*

*II.However, 10% of properties allocated for Open Space Reservation (OSR) purposes should be directly handed over to the Paravai Town Panchayat by executing appropriate gift deed by the applicant AIBEA Nagar residential association with immediate effect.*

*III.One such properties which were allocated for Open Space Reservation purposes are duly handed over to the Paravai Town Panchayat by execution of proper gift deeds, thereafter those layout plan of house sites and buildings built therein could not be considered as unapproved house sites and the same may be extended with appropriate house site and building permissions.*

*IV.The officer concerned, who approved the layout plan of house sites in bits and parcels as far as AIBEA Nagar layout is concerned, has already been retired. However, those other officers who are found responsible in giving approval to AIBEA layout, AIBEA layout should be traced out and if any delinquency is identified on that part appropriate disciplinary action should be initiated as against them with immediate effect.”*

42.Even after such direction, neither the petitioner association nor the



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promoter of AIBEA Nagar came forward to hand over all the properties allocated for Open Space Reservation purposes in AIBEA Nagar layout.

Hence, after a span of 11 years, the 8<sup>th</sup> respondent Panchayat vide proceedings in Na.Ka.No.25/2011 dated 09.11.2012, required the Secretary of the petitioner association to forthwith hand over 10 items of properties comprising 72,296 square feet area comprised in 10 plots allocated for Open Space Reservation purposes by executing necessary gift deeds in favour of the 8<sup>th</sup> respondent Town Panchayat. The said proceeding in Na.Ka.No. 25/2011 dated 09.11.2012, was challenged by the promoter of AIBEA Nagar layout by filing W.P.(MD)No.7245 of 2013 before this Court. During the pendency of the same, the petitioner association represented by its Secretary, Thiru.K.Alagarsamy, filed another Writ Petition in W.P.(MD)No. 24757 of 2015, challenging the resolution of the 8<sup>th</sup> respondent resolution No.105 dated 15.07.1988, passed by the Paravai Town Panchayat. The petitioner association also impleaded itself as respondent in W.P.(MD)No. 7245 of 2013. Both the Writ Petitions were taken up together by the Hon'ble Division Bench of this Court and on 11.12.2018, passed an order directing the District Collector, Madurai, to file a comprehensive counter affidavit before 08.01.2019.

43.The 5<sup>th</sup> respondent District Collector filed a comprehensive counter affidavit in those Writ Petitions before the Hon'ble Division Bench of this Court and the portion of that counter affidavit which is relevant to the facts



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and circumstances of this case in para no.14 of the said affidavit, has already been extracted in para no.35 supra. The two tabulations in the aforesaid paragraph would clearly mirror upon the details of the plots which were already handed over to the 8<sup>th</sup> respondent Town Panchayat and the properties which are yet to be handed over to the 8<sup>th</sup> respondent Town Panchayat by the AIBEA Nagar layout promoters for OSR purposes. While the Writ Petition in W.P.(MD)No.7245 of 2013 filed by the promoters of AIBEE Nagar was dismissed as withdrawn on 09.08.2023. The Writ Petition filed by the petitioner association in W.P.(MD)No.24757 of 2016 was disposed of on 09.08.2023 and the relevant portion of the same is extracted as follows:-

*“2.On the admitted facts, it is seen that the 4th respondent promoted a lay out and the members of the petitioner-s association have all purchased plots. It is stated that one of the areas reserved for public purpose namely, for establishing a community hall as shown in the lay out, has now been sought to be converted as saleable plot. Stating that the 3rd respondent Town Panchayat failed to protect the petitioner-s interest, the above writ petition is filed.*

*3.The learned counsel for the 4th respondent promoter has given an undertaking before this Court that they will not touch any portion of the land reserved for community hall or for any other public purpose. In other words, the undertaking is specific that they will not indulge in any sale of the plot in respect of any portion of the lay out which is reserved for community hall or for public purpose.*

*4.In view of the aforesaid undertaking of the 4th respondent,*



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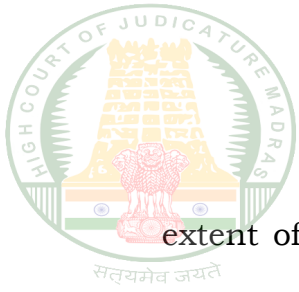
*this Court finds that no further adjudication is necessary. Recording the same, the Writ Petition is disposed of.”*

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44.The counter affidavit filed by the 8<sup>th</sup> respondent Panchayat would reveal the fact that, on 17.05.2020, the 5<sup>th</sup> respondent District Collector vide proceedings in Na.Ka.No.23247/2020/vu.va.11, instructed the 8<sup>th</sup> respondent Town Panchayat to fence the OSR lands in AIBEA Nagar layout to prevent encroachment.

**Subject matter of the present Writ Petition:-**

45.In between the Sivathanya layout and the east west Madurai - Dindigul road lies the AIBEA Nagar layout. A property consisting an area of 0.27 hectares, that is, about 68 cents comprised in survey No.161/1A of Paravai Bit I Village, Madurai-North Taluk, comprised in patta No.1350 originally belonged to One K.Manonmani and patta has been issued in the name of the said Manonmani by the Revenue authorities. The said Manonmani, wife of Kannapa Chettiyar, purchased the said property under registered sale deed dated 17.06.2005 from one Kalyani Achi. When the property was purchased under the said sale deed, it was the part of the larger extent of land measuring 1.07 acres in Survey No.161/1 (old survey No.151/1 of Paravai Bit I village) and the said Manonmani executed a registered Power of Attorney document No.1229 of 2014 dated 27.03.2014, in respect of 29 cents and 243 square feet in the southern side of the larger

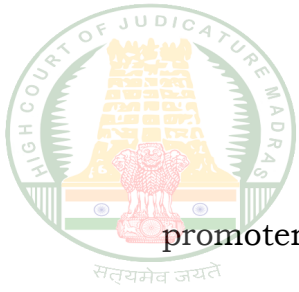


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extent of property purchased by her. To the northern side of the aforesaid land lies the layout of AIBEA Nagar. It was claimed by the petitioner that the said AIBEA layout has been approved by the 8<sup>th</sup> respondent Town Panchayat during 1985/1986, in terms of various layout plan of house sites.

46.The petitioner association claiming the land comprised in Survey No.161/1A measuring 70.5 cents of the land which has been earmarked for forming a park for the AIBEA layout indulged in interfering with the peaceful possession of the said property by the owner in title and possession of the said Tmt.Manonmani, wife of Kannappa Chettiyar. Hence, the Manonmani filed a civil suit in O.S.No.4 of 2009 before the learned District Munisif Court, Madurai District, against the Office Bearers of the petitioner association, namely, one Thiru.V.Pitchai and another Thiru.K.Azhagar Swamy. The said civil suit was laid by Tmt.Manonmani as against the defendants therein to restrain the defendants from interfering with the peaceful possession and enjoyment of the plaint schedule property, consisting an area of 24 cents land comprised in resurvey No.132/4 and another area of 70.500 cents land comprised in resurvey No.151/1, that is, a total area of 86.500 cents land of Paravai village, Madurai-North Taluk, Madurai district.

47.The claim of the petitioner association, that is, the defendants in the aforesaid suit is that the aforesaid property has been allotted by the



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promoters of AIBEA Nagar layout for the purpose of establishing a park for the said layout. However, the learned Trial Court examined two witnesses one M.Kannapan and another Singaram as P.W.1 and P.W.2 through whom Ex.A1 to Ex.A19 were marked on the side of the plaintiffs and one K.Azhagar Swamy was examined as D.W.1 and Ex.D1 to Ex.D4 was also marked on the side of the defendants and on the basis of the pleadings, the documents marked and the evidence deposited by the respective parties and the arguments put forth by the respective parties before the learned Trial Court on 22.12.2010, the learned Trial Court passed a judgment and decree in favor of the said Tmt.K.Manonmani on 23.12.2010, by concluding that the plaint schedule property is the absolute property in possession and title of the plaintiff and hence, the plaintiff is entitled to the relief of permanent injunction as against the defendants as prayed for, thereby allowing the aforesaid suit. Thus the petitioner association suffered a decree in the aforesaid civil suit before the learned District Munsif Court, Madurai district.

**The tale of Sivathanya Layout:**

48.The 11<sup>th</sup> respondent is a property developer and during the year 2014-2016, he purchased several portions of properties in Paravai Bit I Village and developed a layout by name “Sivathanya” and the same is situated within the limits of Paravai Town Panchayat. While being so, the Government came with instructions that it is not sufficient that such layout



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were to be approved by the Town Panchayat or Panchayat, but by the Town and Country Planning Department in accordance with the provisions of Tamil Nadu Town and Country Planning Act, 1971. Hence, the 11<sup>th</sup> respondent along with six other persons in this regard, made an application in application file No.3573/2018/Mathi2, dated 20.06.2019 to the 6<sup>th</sup> respondent.

49.The 6<sup>th</sup> respondent by proceedings in Na.Ka.No.3663/2019/Mathi2 dated 03.03.2020, accorded in-principle approval to the layout plan of house sites comprised in Survey No.153/4, 138/5B, 161/4, 163/1, 2A, 2B, 2C, 5, 6A of Paravai Bit I Village consisting a total area of 27,993.75 square meters. Following which, the 8<sup>th</sup> respondent Town Panchayat by its proceedings in Na.Ka.No.66/2019 dated 13.05.2020, granted final approval regularizing the unapproved residential layout in favor of one Balamurugan and seven others including the 11<sup>th</sup> respondent. The final approval for the aforesaid layout was accorded by the 8<sup>th</sup> respondent Town Panchayat on seven conditions and the same is extracted as follows:-



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பரவை பேரூராட்சி செயல்அலுவலர் அவர்களின் நடவடிக்கைகள்  
முன்னிலை : திருமதி.சி. கந்தி

ந.க.எண். 66/2019

நாள்.13.05.2020

பொருள்: அனுமதியற்ற குடியிருப்பு மனைப்பிரிவு - முறைப்படுத்துதல் - மதுரை உள்நூர் திட்டக் குழுமப் பகுதி - பரவை பேரூராட்சி - பரவை பிட் 1 கிராமம் - சர்வே எண்.135/4,138/5B,161/4,163/1,2A,2B,2C,5,6A ல் 27993.75 ச.மீ பரப்பளவு இடத்தில் அமைந்துள்ள அனுமதியற்ற குடியிருப்பு மனைப்பிரிவு வரைபடம் வரன்முறைப்படுத்தி கொள்கையளவிலான மனைப்பிரிவு ஒப்புதல் வழங்கி உத்தரவிடுதல் - தொடர்பாக.

பார்வை: 1)அரசாணை எண். 78 வீட்டு வசதி மற்றும் நகர்ப்புற வளர்ச்சித் துறை நாள். 04.05.2017 மற்றும் தமிழ்நாடு அரசிதழ் எண். 125, பாகம் - III பிரிவு 1 (A); நாள். 04.05.2017  
2) அரசாணை எண். 172 வீட்டு வசதி மற்றும் நகர்ப்புற வளர்ச்சித் துறை நாள். 13.10.2017  
3) அரசாணை எண். 100, வீட்டு வசதி மற்றும் நகர்ப்புற வளர்ச்சித் துறை நவ.4(3) நாள்.01.07.2019  
4) நகர் ஊரமைப்பு ஆணையர், சென்னை அவர்களின் கடிதம் ந.க.எண். 13193/2017 LA2. நாள். 30.10.2017, 31.10.2017 மற்றும் 07.11.2017, 17.11.2017, மற்றும் 20.12.2017  
5) மனுதாரர் திரு.எம். பாலமுருகன் மற்றும் 7 நபர்கள் மதுரை, அவர்களின் விண்ணப்பம், கோப்பு எண்.3573/2018/மதி2 நாள்.20.06.2019  
6) உறுப்பினர் செயலர், மதுரை உள்நூர் திட்டக்குழுமம், மாநகராட்சி அலுவலக வளாகம் 3ம் தளம், அண்ணா மாளிகை மதுரை-2 அவர்களின் ந.க.எண்.3663/2019/மதி2 நாள்.03.03.2020

உத்தரவு :

பார்வை 5இல் காணும் கடிதத்தில் பரவை பேரூராட்சிக்குட்பட்ட பரவை பிட் 1 கிராமம் சர்வே எண்.135/4,138/5B,161/4,163/1,2 A,2B,2C,5,6A ல் 27993.75ச.மீ பரப்பளவு இடத்தில் அமைந்துள்ள அனுமதியற்ற குடியிருப்பு மனைப்பிரிவு பார்வையில் கட்டிகாட்டிய அரசாணையின் படி நடவடிக்கை மேற்கொண்டு அனுமதியற்ற குடியிருப்பு மனைப்பிரிவு வரைபடம் முறைப்படுத்தி திருத்தியமைக்கப்பட்ட கொள்கையளவிலான மனைப்பிரிவு வரைபடத்திற்கு (In principally accepted layout frame) ம.வ/ம.உ.தி.கு.எண்.04(R)/2020 நாள்.03.03.2020ன்படி நிபந்தனைகளுடன் கொள்கையளவிலான மனைப்பிரிவு ஒப்புதல் வழங்கப்பட்டுள்ளது.

மேற்கண்ட மனைபிடத்தில் 143 மொத்த மனைகளில் 5 விற்கப்பட்ட மனைகளாகவும், 138 விற்கப்படாத மனைகளாகவும் உள்ளது. விற்கப்படாத மனைகளில் மொத்த பரப்பளவு 19256.43 ச.மீ. ஆகும். பொது ஒதுக்கீடு (OSR) செய்யப்பட வேண்டிய திறவிட பகுதி 1931.64 ச.மீ. ஆகும்.

1.அரசாணைபடி மனைப்பிரிவு அபிவிருத்தியாளர் அல்லது மனை உரிமையாளர் இணையத்தளத்தின் மூலம் கூராப்டு கட்டணமாக மனை ஒன்றுக்கு ரூ. 500/- வீதம் ரூ.75000/- செலுத்தப்பட்டுள்ளது.

2. மேற்கண்ட கடிதத்தில் பொது திறவிட பகுதி (OSR) 1931.64 ச.மீ.க்கு பரப்பளவு உள்ள இடம் மற்றும் சாலைக்கு ஒதுக்கப்பட்ட இடம் ஆகியவற்றை மதுரை உள்நூர் திட்டக் குழுமம், உறுப்பினர் செயலர் அவர்களுக்காக தான்பத்திரப்பதிவு மூலம் ஒப்படைப்பு செய்யப்பட்டுள்ளது.

3. முறைப்படுத்துதல் கட்டணம் 1 ச.மீ.க்கு ரூ.45/- வீதம் 19256.43 ச.மீ.க்கு கருவூலக சலான் எண்.20 நாள்.07.05.2020 ரூ.3,19,400/-, சலான் எண்.21-நாள்.07.05.2020 ரூ.1,83,140/-, சலான் எண்.22 நாள்.07.05.2020 ரூ.2,57,240/-, சலான் எண்.23 நாள்.07.05.2020 ரூ.1,06,785/- ஆக மொத்தம் ரூ.8,66,565/- அரசு கணக்கில் செலுத்தப்பட்டுள்ளது.

4. வளர்ச்சிக் கட்டணம் 1 ச.மீ.க்கு ரூ.75/- வீதம் 19256.43 ச.மீ.க்கு வங்கி வரைவோலை எண்.425386 நாள்.06.05.2020 ரூ.428731/- வங்கி வரைவோலை எண்.425388 நாள்.06.05.2020 ரூ.178995/-, வங்கி வரைவோலை எண்.425389 நாள்.06.05.2020 ரூ.305231/-, வங்கி வரைவோலை எண்.425390 நாள்.07.05.2020 ரூ.532325/- ஆக மொத்தம் ரூ.14,45,282/- பேரூராட்சி கணக்கில் செலுத்தப்பட்டுள்ளது.



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நிபந்தனைகள்:-

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1. நிலஉரிமம் குறித்து வழங்கப்பட்ட சான்றுகள் மற்றும் பரிசீலனைக்கு சமர்ப்பிக்கப்பட்ட ஆவணங்கள் சரியானவை அல்ல என அறியப்பட்டால் அல்லது மனைப்பிரிவிற்கு கொள்கை அளவிலான ஒப்புதல் வழங்கியதில் பாதிப்பு ஏற்பட கூடிய சூழ்நிலை ஏற்படும் இம்மனைப்பிரிவிற்கு வழங்கப்பட்ட கொள்கை அளவிலான ஒப்புதல் எவ்வித முன்னறிவிப்பின்மீது இரத்து செய்யப்படும்.
2. மனையின் ஊடே குறைந்த அழுத்த/உயர் அழுத்த மின்கம்பிப் பாதை/தந்திக் கம்பிப் பாதை அமைந்தால், கம்பிப்பாதையை சாலையின் விளிம்பிற்கோ அல்லது அங்கீகரிக்கப்பட்ட மனைப்பிரிவு வரைபடத்தில் காண்பித்துள்ளவாறோ மாற்றி அமைக்க வேண்டும்.
3. மனுதாரர் மனைப்பிரிவிற்கு வடக்கு பகுதியில் உள்ள இடம் பரவை பேரூராட்சிக்கு சொந்தமான இடமாகும். மேற்படி மனுதாரர் பேரூராட்சிக்கு சொந்தமான இடத்தை பொது பாதையாக பயன்படுத்தக் கூடாது என்றும் தங்களிடமிருந்து அபிடலிட் பெறப்பட்டுள்ளது. மேலும் பேரூராட்சிக்கு சொந்தமான இடத்தை மீறி பயன்படுத்தினால் எவ்வித முன்னறிவிப்பின்மீது மனைப்பிரிவு அங்கீகாரம் இரத்து செய்யப்படும் என்ற விபரம் மனுதாரருக்கு இதன் மூலம் தெரிவிக்கப்படுகிறது.
4. மனைகளில் அமைந்துள்ள கட்டிடங்கள் வரன்முறைப்படுத்தப்பட்டதாக கருதப்படக்கூடாது.
5. உள்ளூர் திட்டக்குழு அலுவலகத்தில் அனுமதி வழங்கப்பட்ட மனைப்பிரிவு வரைபடத்தில் இவ்வலுவலக அனுமதியின்றி மாற்றம் செய்யக்கூடாது.
6. பொதுதிறவிட பகுதி (OSR) பகுதியை முள்வேலி அமைத்து பேரூராட்சி வசம் ஒப்படைக்க வேண்டும்.
7. காலி மனைப்பிரிவு சுற்றிலும் மரக்கன்றுகள் நடப்பட வேண்டும்.

மேற்கண்ட நிபந்தனைகளுக்குப்பட்டு பிளாட் எண்.A2,A3,A4,A5,A6,A7,A7A,A9,A10, A11,A12,A13,A14,A15,A16,A16A,A18,A19,A20,A21,A22,A23,A25,A25A,A27,A28,A29,A30,B1,B2,B3,B4,B5,B 6,B6A,B7,B7A,B9,B10,B11,B12,B13,B14,B15,B16,B16A,B16B,B18,B19,B20,B21,B22,C1,C2,C3,C4,C5,C6,C7,C 7A,C9,C10,C11,C12,C13,C14,C15,C16,C16A,C18,C19,C20,C21,C22,C23,C24,C25,C25A,C27,D13,D14,D15,D16 ,D16A,D18,D19,E1,E2,E3,E4,E5,E6,E7,E7A,E9,E10,E11,E12,E13,E14,E15,E16,E16A,E18,E19,E20,E21,E22,E 23,E24,E25,F1,F2&F3,F4,F5,F6,F7,F7A,F9,G2,G3,G4,G5,G6,G7,G7A,G9,G10,G11,G12,G13,G14,G15,G16,G16A, G18,G19 மற்றும் G20 ஆகிய பிளாட் எண்களுக்கு மனைப்பிரிவு ஒப்புதல் வழங்கலாம்.

செயல் அலுவலர்

பரவை தேர்வுநிலை பேரூராட்சி  
மதுரை மாவட்டம்.

பெறுநர்

திரு.எம். பாலமுருகன் மற்றும் 7 நபர்கள்  
பிளாட் எண்.350, கே.கே.நகர்  
மதுரை-20.

நகல்:-

1. பேரூராட்சிகளின் உதவி இயக்குநர் மதுரை மண்டலம், அவர்களுக்கு தகவலுக்காக பணிந்து சமர்ப்பிக்கப்படுகிறது.
2. உறுப்பினர் செயலர், மதுரை உள்ளூர் திட்டக்குழுவும் மாநகராட்சி வளாகம் 3ம் தளம், அண்ணா மாளிகை மதுரை -02
3. சார்பதிலாளர், மதுரை வடக்கு, மதுரை.



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50. In the background of the development of two different layouts, namely, AIBEA Nagar layout and Sivathanya layout, by two different promoters for the purpose of deciding the subject matter in issue in this Writ Petition, it is necessary to narrate the sequence of the various events in the development of the aforesaid layouts and the same are as follows:-

| S.No. | Date               | Description                                                                                                                    |
|-------|--------------------|--------------------------------------------------------------------------------------------------------------------------------|
| 1.    | 22.04.1985         | Bits and parcels of layout plan of house sites of AIBEA Nagar layout approved by the 8 <sup>th</sup> respondent Town Panchayat |
| 2.    | 26.04.1985         | Bits and parcel of layout plan of house sites of AIBEA Nagar approved by the 8 <sup>th</sup> respondent Town Panchayat         |
| 3.    | 30.04.1985         | Bits and parcel of layout plan of house sites of AIBEA Nagar approved by the 8 <sup>th</sup> respondent Town Panchayat         |
| 4.    | 07.05.1985         | Bits and parcel of layout plan of house sites of AIBEA Nagar approved by the 8 <sup>th</sup> respondent Town Panchayat         |
| 5.    | 15.05.1985         | Bits and parcel of layout plan of house sites of AIBEA Nagar approved by the 8 <sup>th</sup> respondent Town Panchayat         |
| 6.    | Dated nil.<br>1986 | Bits and parcel of layout plan of house sites of AIBEA Nagar approved by the 8 <sup>th</sup> respondent Town Panchayat         |



|    |            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|----|------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 7. | 15.07.1998 | Resolution No.105 passed by the 8 <sup>th</sup> respondent Panchayat in its emergency council meeting at the instance of the promoter of AIBEA Nagar layout, that is, the Madurai Ramanathapuram District Bank Employees Union, for the purpose of converting the land area earmarked for school in the layout approval number 267/5/1985 dated 07.05.1985 into community hall and the area earmarked for community hall in layout approval number 267/4/1985 dated 07.05.1985 into house sites. |
| 8. | 30.11.2000 | The issuance of G.O.(2Pa)No.141 by the Department of Municipal Administration and Water Supply setting out conditions for approval of AIBEA Nagar layout by the appropriate authority including initiating disciplinary proceedings as against the officers of the 8 <sup>th</sup> respondent Town Panchayat who granted approval in bits and parcels to the layout plan of house sites during 1985-1986 to the AIBEA Nagar layout.                                                              |
| 9. | 23.12.2010 | The judgment in O.S.No.4 of 2009 on the file of the learned District Munsif Court, Madurai district, in favor of the plaintiff Tmt.K.Manonmani, wife of Kannapa Chettiar, as against the writ petitioner association herein, who are restrained by means of a permanent injunction by restraining the petitioner association from interfering with the peaceful possession and enjoyment of the plaint schedule property in the aforesaid suit.                                                  |



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|     |               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-----|---------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 10. | 09.11.2012    | <i>The proceedings of the 8<sup>th</sup> respondent panchayat in Na.Ka.No.25/2011, requiring the promoters/petitioner association to immediately hand over the properties allotted for OSR purposes in the AIBEA Nagar layout with immediate effect.</i>                                                                                                                                                                                                                    |
| 11. | April 2013    | <i>The promotor of the AIBEA Nagar layout filed a writ petition in W.P.(MD)No.7245 of 2013, challenging the impugned proceedings of the 8<sup>th</sup> respondent in Na.Ka.No.25/2011 dated 09.11.2012, requiring the promotor of the aforesaid layout to hand over the enlisted 10 items of properties allocated for the purpose of OSR in AIBEA Nagar layout.</i>                                                                                                         |
| 12. | 09.04.2014    | <i>Gift deed executed by the 11<sup>th</sup> respondent in the capacity of Power of Attorney holder of Tmt.K.Manonmani with respect to 29 cents 243 square feet land comprised in Survey No.161/1A of Paravai Village Ist Bit in item No.1 and another 29 cents 243 square feet land comprised in Survey No.161/1A of Paravai Ist Bit Village in item No.2 for the purpose of laying road to the Sivathanya avenue in favor of the 8<sup>th</sup> respondent Panchayat.</i> |
| 13. | 31.05.2016    | <i>Road gift deed executed by Tmt.R.Pachaiyamal in favor of 8<sup>th</sup> respondent Panchayat with respect to 29 cents 243 square feet land comprised in Survey No. 161/1A of Paravai Bit I Village.</i>                                                                                                                                                                                                                                                                  |
| 14. | December 2016 | <i>The petitioner association filed a writ petition in W.P. (MD)No.24757 of 2016, challenging resolution No.105 dated 15.07.1988 passed by the Paravai Town Panchayat in its emergency council meeting after a lapse of 15 years before this Court.</i>                                                                                                                                                                                                                     |



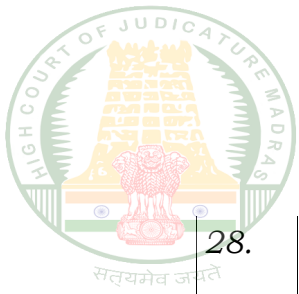
|     |            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-----|------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 15. | 11.12.2018 | <i>The Hon'ble Division Bench of this Court took up W.P. (MD)Nos.7245 of 2013 and 24757 of 2016 together and passed an order of status quo to be maintained until further orders, thereby directing the District Collector, Madurai, to file a comprehensive counter affidavit in the aforesaid Writ Petitions.</i>                                                                                                                                                           |
| 16. | 18.01.2019 | <i>The District Collector filed a comprehensive counter affidavit before the Hon'ble Division Bench of this Court in W.P.(MD)Nos.7245 of 2013 and 24757 of 2016, setting out the details of those lands which were already handed over by the promoters of AIBEA Nagar layout and those lands, which are yet to be handed over to the Paravai Town Panchayat as on 18.01.2019 by the promoters of the aforesaid layout to the 8<sup>th</sup> respondent Panchayat herein.</i> |
| 17. | 25.02.2020 | <i>Another road gift deed executed by the 11<sup>th</sup> respondent in favor of the 8<sup>th</sup> respondent Panchayat.</i>                                                                                                                                                                                                                                                                                                                                                 |
| 18. | 21.02.2020 | <i>The road pattern submitted by the promoters of Sivathanya layout was approved by the 6<sup>th</sup> respondent.</i>                                                                                                                                                                                                                                                                                                                                                        |
| 19. | 03.03.2020 | <i>The proceedings of the 6<sup>th</sup> respondent in Na.Ka.No. 3663/2019/Mathi2 giving in-principle regularization of Sivathanya layout.</i>                                                                                                                                                                                                                                                                                                                                |
| 20. | 13.05.2020 | <i>The proceedings of the 8<sup>th</sup> respondent Panchayat in Na.Ka.No.66 of 2019 according final approval for the Sivathanya layout in terms of the proceedings of the 6<sup>th</sup> respondent dated 03.03.2020.</i>                                                                                                                                                                                                                                                    |



|     |            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|-----|------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 21. | 09.09.2020 | <i>The petitioner association made an application before the Additional Chief Secretary to Government, Municipal Administration and Water Supply Department, the Director of Town Panchayats, Urban Administrative Office Campus, Chennai, and the District Collector, Madurai, regarding the approval dated 13.05.2020, accorded to the Sivathanya layout by the 8<sup>th</sup> respondent Panchayat, more particularly, pointing out the fact that the said approval has been accorded during the pendency of W.P.(MD)Nos.7245 of 2013 before this Court.</i>                                                                                                                                              |
| 22. | 17.09.2020 | <i>The application of the petitioner association dated 09.09.2020, was taken up for inquiry by the District Collector vide proceedings in Na.Ka.No. 23247/2020/UV11 dated 17.09.2020, the inquiry report was also furnished to the Secretary of the petitioner association, AD Panchayat, Madurai, and the 8<sup>th</sup> respondent Town Panchayat. In the aforesaid report, the District Collector directed the 8<sup>th</sup> respondent Panchayat to demarcate the boundaries with respect to the area allocated for the purpose of establishment of a park by the AIBEA Nagar layout and on demarcation to safeguard the aforesaid area by fencing in all the four directions within two days time.</i> |
| 23. | 16.10.2020 | <i>Another road gift deed bearing document No.2770 of 2020 executed by the eleventh respondent in favor of the 8<sup>th</sup> respondent Panchayat.</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |



|     |            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-----|------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 24. | 13.11.2021 | <i>The 8<sup>th</sup> respondent Panchayat without removing the fence vide proceedings in Na.Ka.No.305 of 2021 replied to the purchaser, namely, Muniyandi, that the representation of the said Muniyandi would be considered, pursuant to the outcome of the pending Writ Petitions in W.P.(MD)Nos.7245 of 2013 and 24757 of 2016.</i>                                                                                                                                                                                                                                          |
| 25. | 15.11.2021 | <i>One of the purchasers of a housing plot in Sivathanya layout made a representation to the district collector Madurai seeking to remove the fence put up by the 8<sup>th</sup> respondent Panchayat on the direction of the District Collector, Madurai, around the alleged area which has been earmarked by the petitioner association/promoter of AIBE Nagar layout for the purpose of establishment of park.</i>                                                                                                                                                            |
| 26. | 16.03.2022 | <i>Claiming that the aforesaid Writ Petitions in W.P. (MD)Nos.7245 of 2013 and 24757 of 2016 are in no way connected with the road property of Sivathanya layout, Thiru.K.Muniyandi filed W.P.(MD)No.4796 of 2022 before this Court, challenging the proceedings of the 8<sup>th</sup> respondent Panchayat in Na.Ka.No.305 of 2021 dated 30.11.2021, seeking to remove the fence made around the roads in the approved layout of Sivathanya layout in Survey Nos.135/4, 138/5b, 161/4, 163/1, 2a, 2b, 2c, 5 and 6 of Paravai Ist Bit Village North Taluk, Madurai District.</i> |
| 27. | 09.08.2023 | <i>The Hon'ble Division Bench of this Court dismissed W.P.(MD)No.7245 of 2013 as withdrawn.</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |



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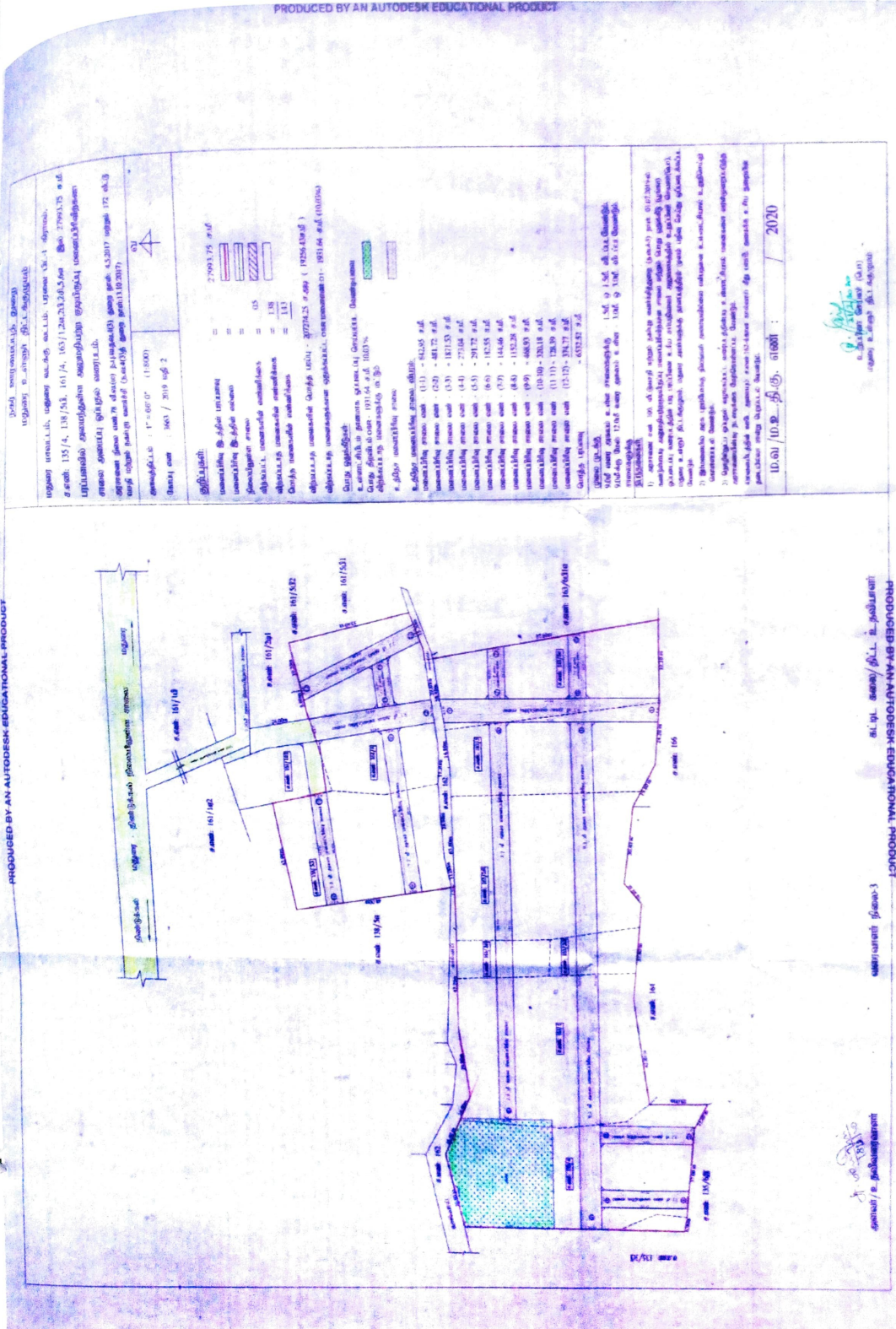
|     |            |                                                                                                                                                                                                                                                                                                                                 |
|-----|------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 28. | 09.08.2023 | <i>The Hon'ble Division Bench of this Court in W.P. (MD)No.24757 of 2016 recording the undertaking of the promoter of AIBEA Nagar layout that he will not indulge in sale of any plot with respect to any portion of the layout which is reserved for community hall or for public purposes, disposed of the Writ Petition.</i> |
| 29. | 12.08.2023 | <i>Tmt.K.Manonmani, wife of Kannappa Chettiyar, filed a petition in W.P.(MD)No.20809 of 2023, challenging the impugned letter in Na.Ka.No.305/2020 dated 30.11.2021, on the file of the 8<sup>th</sup> respondent Town Panchayat.</i>                                                                                           |
| 30. | 12.09.2024 | <i>The writ petitioner association made a complaint to the respondents 1 to 8 as to the way in which the promoters of Sivathanya layout removed the fencing in the alleged park area of AIBEA Nagar layout in a high-handed manner and laid road in the site.</i>                                                               |
| 31. | 18.11.2024 | <i>W.P.(MD)No.27265 of 2024 is filed that is the instant Writ Petition before this Court.</i>                                                                                                                                                                                                                                   |

51.The road pattern submitted by the promoters of Sivathanya layout was approved by the 6<sup>th</sup> respondent on 21.02.2020 and the same is extracted as follows:-



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52.The various sequence of events stretching from 22.04.1985 till 18.11.2024, that is, the date on which this Writ Petition was filed before this Court tabulated supra, would reflect upon the real facts-in-issue. Already one civil suit has been laid before the learned District Munsif Court, at Madurai, and as many as four Writ Petitions have been filed before this Court by the various parties. O.S.No.4 of 2009 was laid by one Tmt.Manonmani, wife of Kannappa Chettiar, as against the petitioner association herein, seeking relief of permanent injunction restraining the petitioner association from interfering with the peaceful possession and enjoyment of the property purchased by the Tmt.Manonmani under a registered sale deed dated 17.06.2005 from one Kalyani Achi. The said civil suit was properly conducted by the learned District Munsif Court, at Madurai and after an elaborate trial on hearing both the parties, the suit was decreed as prayed for by a judgment and decree dated 23.12.2010 in favor of the Tmt.Manonmani, wife of Kannappa Chettiar.

52.1.W.P.(MD)No.7245 of 2013 was filed by the promoters of AIBEA Nagar layout, namely, Madurai Ramanathapuram District Bank Employees Union, challenging the proceedings of the 8<sup>th</sup> respondent Town Panchayat bearing Na.Ka.No.25/2011 dated 09.11.2012, by which the 8<sup>th</sup> respondent Panchayat required the promoter of AIBEA Nagar layout to hand over those properties, which are allocated for the purpose of Open Space Reservation in



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the said layout with immediate effect. The said Writ Petition was dismissed as withdrawn on 09.08.2023, by the Hon'ble Division Bench of this Court with liberty to challenge the order of the Government where there was a condition that requires the promoter to reserve some lands for public purpose and to donate the same to the local body on the endorsement made by the writ petitioner therein.

53.W.P.(MD)No.24757 of 2016 was filed by the petitioner association challenging the Resolution No.105 dated 15.07.1998, passed by the Paravai Town Panchayat, in its emergency council meeting at the instance of the promoter of AIBEA Nagar layout to convert the land area earmarked for school in layout Approval No.267/5/85 dated 07.05.1985, into community hall and the area earmarked for community hall in layout Approval No. 267/4/85 dated 07.05.1985 into house sites and the same was disposed of by the Hon'ble Division Bench of this Court on 09.08.2023, recording the undertaking of the promoter of the aforesaid layout that they will not touch any portion of the land reserved for community hall or for any public purposes.

53.1. W.P.(MD)No.4796 of 2022 was filed by one of the purchaser of the house site of Sivathanya layout, challenging the proceedings of the 8<sup>th</sup> respondent Panchayat in Na.Ka.No.305 of 2021 dated 30.11.2021, replying the representation of the writ petitioner therein that the fence put up by the



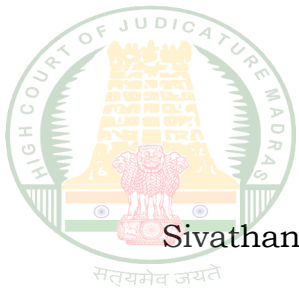
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8<sup>th</sup> respondent Panchayat around the land allegedly earmarked by the AIBEA Nagar layout for establishment of a park subject to the outcome of the Writ Petitions in W.P.(MD)Nos.7245 of 2013 and 24757 of 2016 and the same is pending.

54. Another Writ Petition in W.P.(MD)No.20809 of 2023 was filed before this Court by Tmt.K.Manonmani, wife of Kannappa Chettiar, through her Power of Attorney, that is, 11<sup>th</sup> respondent, challenging the very same impugned letter in Na.Ka.No.305 of 2021 dated 30.11.2021 on the file of the 2<sup>nd</sup> respondent and the same is pending.

55. The length and breadth of the crux of the issue in hand could be crystallized as follows:-

The petitioner association claims that the land consisting of a total extent of 37,900 square feet comprised in Survey Nos.138 and 150 of the Paravai Ist Bit Village in plot No.116B of AIBEA Nagar layout is the one which is earmarked for the Open Space Reservation purposes, more particularly, for the establishment of a park. The further claim of the petitioner association is that the aforesaid land is situated to the north of the Sivathanya layout promoted and developed by the 11<sup>th</sup> respondent. It is also categorically pointed out by the learned Senior Counsel appearing for the petitioner association that, the final approval accorded by the 8<sup>th</sup> respondent Town Panchayat to the 11<sup>th</sup> Respondent promoter who developed

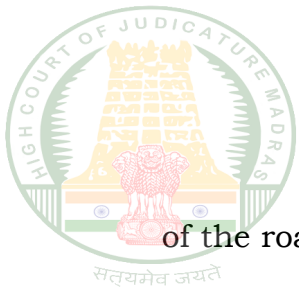


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Sivathanya layout, was on a specific condition that the 11<sup>th</sup> respondent should not utilize the land belonging to the Paravai Town Panchayat situated to the north of Sivathanya layout for the purposes of public pathway and an affidavit has also been received from the 8<sup>th</sup> respondent Town Panchayat from the 11<sup>th</sup> respondent herein.

55.1.The fact in issue is that the petitioner association claim that extent of 37,900 square feet in plot No.116B comprised in Survey Nos.138 and 150 of Paravai Bit Ist Village is the land lying to the north of Sivathanya layout which is prohibited by the proceedings of the 8<sup>th</sup> respondent Panchayat in Na.Ka.No.66 of 2019 dated 13.05.2020, from utilizing the same as a public pathway. The claim of the 11<sup>th</sup> respondent is that the third condition in proceedings No.66 of 2019 dated 13.05.2020, is vague and uncertain and the same is bereft of details such as area and survey numbers of the property situated to the north of Sivathanya layout which belong to the 8<sup>th</sup> respondent Panchayat.

56.That apart, it is the categorical contention of the 11<sup>th</sup> respondent that vide gift deed bearing document No.1357 of 2014 dated 09.04.2014, gift deed bearing document No.1822 of 2016 dated 31.05.2016, gift deed bearing document No.664 of 2020 dated 25.02.2020, gift deed bearing document No. 2770 of 2020 dated 06.10.2020, has been executed in favor of the Town Panchayat for the purpose of laying roads for the Sivathanya layout in terms



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of the road pattern approval accorded by the 8<sup>th</sup> respondent Town Panchayat by proceedings dated 21.02.2020. One of such gift deed executed by Tmt.K.Manonmani, wife of Kannappa Chettiar by gift deed dated 09.04.2014, for the purpose of laying road is comprised in old Survey No. 151/1 correlated to UDR Survey No.161/1A of Paravai Ist Bit Village and the same is situated to the north of the Sivathanya layout.

57.During the pendency of W.P.(MD)No.7245 of 2013 filed by the promoters of the AIBEA Nagar layout and W.P.(MD)No.24757 of 2016 filed by the petitioner association in-principle approval was accorded to the Sivathanya layout by the 6<sup>th</sup> respondent by proceedings dated 03.03.2020, which was followed by the final approval in proceedings bearing Na.Ka.No. 66/2019 dated 13.05.2020, passed by the 8<sup>th</sup> respondent Town Panchayat. Despite the Government issuing a Government Order in G.O.(2Pa)No.141 dated 30.11.2000, facilitating the approval of the AIBEA Nagar layout subject to the condition of handing over all the properties, which has been allocated for the Open Space Reservation purposes forthwith. Since the promoter of the AIBEA Nagar failed to hand over the entire area allocated for Open Space Reservation purposes, the 8<sup>th</sup> respondent panchayat by proceedings in Na.Ka.No.25/2011 dated 09.11.2012, required the promoters of the AIBEA Nagar layout to immediately hand over 10 items of property comprised in a total area of 72,296 square feet, that is, an area of 1 acre and



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65 cents. This proceeding passed by the 8<sup>th</sup> respondent Town Panchayat was challenged by the promoter of AIBEA Nagar layout in W.P.(MD)No.7245 of 2013 and for better clarity, the said proceedings is extracted here under:-

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அனுப்புநர்  
திரு. எம்.கந்திராஜன்,  
செயலாளர்,  
ஏ.ஐ.பி.இ.ஏ நகர்,  
வெல்பர் அசோசியேசன்  
99/42பி, தெற்கு மாகி வீதி,  
மதுரை - 625001

ந.க.எண்.25/2011 நாள்.09.11.2012

அய்யா, பொருள் : ஆக்கிரமிப்பு - பரவை பேரூராட்சி - வார்டு எண். 7 ஏ.ஐ.பி.இ.ஏ நகர் - ஏ.ஐ.பி.இ.ஏ நகரில் பொது பயன்பாட்டிற்கு ஒதுக்கப்பட்ட இடங்கள் - தனசெட்டில்மெண்ட் பத்திரம் மூலம் பரவை பேரூராட்சிக்கு ஒப்படைப்பு செய்தல் - சார்பு.

பார்வை : 1. மதுரை மாவட்ட ஆட்சித்தலைவர் அவர்களின் முன்னிலையில் நடைபெற்ற கூட்ட முடிவு.  
2. பரவை பேரூராட்சி மூலம் ஏற்கனவே அனுப்பப்பட்ட கடிதம் ந.க.எண். 25/2011 நாள். 10.07.2012

பரவை பேரூராட்சிக்கு தானசெட்டில்மெண்ட் பத்திரம் மூலம் இடங்கள் ஒப்படைப்பு செய்ய கோரி பார்வை 2ல் கண்டுள்ள மாவட்ட ஆட்சித்தலைவர்கூட்டத்தில் அறிவுறுத்தப்பட்டிருந்தது. அக்கூட்டத்தில் அறிவுறுத்தியபடி, பரவை பேரூராட்சியால் ஏ.ஐ.பி.இ.ஏ நகரில் கையகப்படுத்தப்பட்ட இடங்களை காலம் தாழ்த்தாமல் தானசெட்டில்மெண்ட் பத்திரம் மூலம் ஒப்படைப்பு செய்யுமாறு தங்களுக்கு அறிவுறுத்தப்படுகிறது.

ஏற்கனவே ஒப்படைப்பு செய்யப்பட்ட இடங்கள்

| வ.எண். | சர்வே எண். பழையது / புதித ஆர்டர் எண். | சதுரஅடி | பிளாட் எண்.  |
|--------|---------------------------------------|---------|--------------|
| 1      | 138/4 & 139/6                         | 771     | 317/A        |
| 2      | 152/1 UDR                             | 1200    | 317          |
| 3      | 152/1 UDR & 158/1                     | 1432    | 316          |
| 4      | 137/2A,2B,2C,2F,2G,2H,2I UDR 148/2F   | 3058    | 32/A (Kovil) |
| 5      | 137/2A,2B,2C,2F,2G,2H,2I UDR 148/2F   | 1444    | 32           |
| 6      | 139/1, UDR 140/1A                     | 10586   | Park 402/A   |
| 7      | பழைய சர்வே எண்.151/7 UDR No. 161/7    | 1365    | 233          |
| 8      | Rs.No.157/7, 158/1 UDR 5              | 1050    | 234          |
| 9      | 151/7 UDR161/7                        | 490     | 280A         |
| 10     | 138/4, (139/6)                        | 8158    | 429B         |
| 11     | 138/4, 139/6                          | 4092    | -            |
| 12     | 137/3,138/4,151/1,2A,2B UDR 161/2A    | 1180    | 163          |
| 13     | 137/3,138/4,151/1,2A,2B               | 4484    | 116A         |
| 14     | 151/5,161/5C                          | 1344    | Vacant       |
| 15     | 151/5,161/5 UDR 151/6,161/6           | 2132    | 277          |



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| வ.எண். | சர்வே எண். பழையது / யுடிஆர்ஈ எண். | சதுரஅடி                   | பிளாட் எண். |
|--------|-----------------------------------|---------------------------|-------------|
| 16     | S.No.135/3 UDR No.141/3           | 576                       | 353/A       |
| 17     | 136/6 UDR 147/6A                  | 5434                      | 44 A        |
|        | மொத்தம்                           | 48796<br>(1 Acre 12 Cent) |             |

தற்போது ஒப்படைப்பு செய்யப்பட்ட வேண்டிய இடங்கள்

| வ.எண். | சர்வே எண். பழையது / யுடிஆர்ஈ எண். | சதுரஅடி                   | பிளாட் எண்.             |
|--------|-----------------------------------|---------------------------|-------------------------|
| 1      |                                   | 2054                      | 3A முதல் நெரு காலியிடம் |
| 2      |                                   | 19958                     | 32B கம்ப்யூனிட்டி ஹால்  |
| 3      |                                   | 2580                      | 44 கடை                  |
| 4      |                                   | 864                       | 61 கடை                  |
| 5      |                                   | 37900                     | 116B வேலி அடைப்பு       |
| 6      |                                   | 2400                      | 143 இடம்                |
| 7      |                                   | 1311                      | 162 இடம்                |
| 8      |                                   | 1200                      | 220 காலியிடம்           |
| 9      |                                   | 2240                      | 255 காலியிடம்           |
| 10     |                                   | 1789                      | 281 காலியிடம் - கடை     |
|        | மொத்தம்                           | 72296<br>(1 Acre 65 Cent) |                         |

செயல்படுத்தல்  
 பரவை தேர்வுநிலை பேரூராட்சி  
 மதுரை மாவட்டம்.

நகல்.

1. பேரூராட்சிகளின் உதவி இயக்குநர், மதுரை மண்டலம், மதுரை அவர்களுக்கு பணிந்து சமர்ப்பிக்கப்படுகிறது.

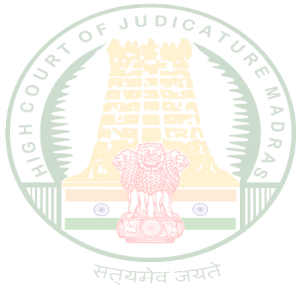


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58.A careful perusal of the said proceedings extracted above would reveal that item No.5 is cited as one of the property, which has to be handed over by the promoters of AIBEA Nagar layout to the 8<sup>th</sup> respondent Town Panchayat and the same is comprised in plot No.116B and the same consist an area of 37,900 square feet. It is pertinent to note that the said property is mentioned as fenced (Veli Adaippu). During the pendency of the Writ Petitions in W.P.(MD)Nos.7245 of 2013 and 24757 of 2016, the 5<sup>th</sup> respondent District Collector for the purpose of filing a comprehensive counter affidavit further detailed in para No.14 of the said counter affidavit that the extent of properties, which are to be handed over by the AIBEA promoters to the 8<sup>th</sup> respondent Town Panchayat and those properties, which were already handed over to the Paravai Town Panchayat. Even in the said tabulation, which is extracted in para No.54 supra, the same area consisting an extent of 37,900 square feet is shown in plot No.116B as comprised in Survey Nos.138 and 150 as on 18.01.2019, that is, the date of the counter affidavit of the 5<sup>th</sup> respondent.

59.Only after the filing of the aforesaid counter affidavit and during the pendency of the aforesaid Writ Petitions, the in-principle approval and the final approval to Sivathanya layout was accorded by the 6<sup>th</sup> respondent and the 8<sup>th</sup> respondent Town Panchayat respectively.



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60.Pursuant to the same, the petitioner association made a complaint before the respondents 1 to 8 as to the way in which the 8<sup>th</sup> respondent had accorded approval to the Sivathanya layout vide proceedings in Na.Ka.No. 66/2019 dated 13.05.2020, following which the Collector conducted an inquiry and had also raised a enquiry report in Na.Ka.No. 23247/2020/Vu.Va.11 dated 17.09.2020 and the relevant portion of the same is extracted as follows:-



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மேற்படி வழக்குகளுக்கு நீதிமன்றத்தால் 30.09.2019 அன்று பிறப்பிக்கப்பட்ட இடைக்கால உத்தரவில் இவ்வழக்கின் மனுதாரர்களாகிய மதுரை இராமநாதபுரம் மாவட்ட வங்கி ஊழியர் அமைப்பு பொது சொத்தினை உள்ளாட்சி அமைப்புக்கு ஒப்படைக்கவும் அதுவரை உள்ளாட்சி அமைப்பு அவ்விடங்களில் எந்தவொரு நடவடிக்கைகளையும் மேற்கொள்ளக் கூடாது எனவும் நீதிமன்றத்தால் உத்தரவிடப்பட்டு வழக்கு நிலுவையில் உள்ளது.

மேற்குறிப்பிட்டவாறு பேரூராட்சி செயல் அலுவலர் அவர்களின் 09.11.2012 ஆம் நாளிட்ட உத்தரவில் பட்டியலிடப்பட்ட பொது சொத்துக்களை மீள ஒப்படைக்குமாறு தெரிவிக்கப்பட்டு வழக்கு நிலுவையில் இருக்கும் பட்சத்தில் பரவை பேரூராட்சி செயல் அலுவலர் அவர்களின் நடவடிக்கைகள் ந.க.எண். 66 / 2020, நாள் 13.05.2020 -ன்படி ஏற்கனவே மீள ஒப்படைக்குமாறு தெரிவிக்கப்பட்டுள்ள பொது சொத்து வழியாக செல்லும் இடங்களை குடியிருப்பு பகுதிகளாக மாற்றி அமைப்பதற்கு மனை வரைபட அங்கீகாரம் வழங்கப்பட்டுள்ளது.

மேற்கண்டவாறு வழக்கில் உள்ள பொது திறவை (OSR Lands) இடத்திற்கு 2014 ஆம் ஆண்டில் திருத்திய மனை வரைபட அங்கீகாரம் வழங்கப்பட்டுள்ளது என்பதை நிரூபிக்கும் வகையில் வில்லங்கச் சான்று உள்ளது.

மேலும் பரவை பேரூராட்சி செயல் அலுவலர் அவர்களால் திரு பாலமுருகன் என்பவருக்கு பரவை தேர்வு நிலை பேரூராட்சிக்கு உட்பட்ட வார்டு எண் 7 AIBEA நகர் B காலனியில் பரவை 1 பிட் கிராமம் சர்வே எண். 138 , 150 ல் பிளாட் எண் 116 B -ல் பேரூராட்சிக்கு ஒப்படைப்பு செய்யப்பட்ட இடமான சாலைப் பகுதியை ஆக்கிரமிப்பு செய்யவோ , பயன்படுத்துவதையோ நிறுத்திக் கொள்ளுமாறு தெரிவித்து அறிவிப்பு அனுப்பப்பட்டு அதன் நகல் எனக்கு அனுப்பப்பட்டது. அந்நகலில் பார்வையில் குறிப்பிட்டுள்ள பேரூராட்சி செயல் அலுவலர் அவர்களின் ந.க.எண். 66 / 2019, நாள். 13.05.2020 நாளிட்ட கடிதத்தினை ஒப்படைக்குமாறு எனது 25.08.2020 மற்றும் 09.09.2020 நாளிட்ட கடிதத்தில் கோரப்பட்டதில் அக்கடிதம் மூன்று தினங்களுக்கு முன்னர் எனக்கு அனுப்பி வைக்கப்பட்டது. மேற்படி ந.க.எண். 66 / 2019, நாள். 13.05.2020 நாளிட்ட கடிதத்தில் பரவை பேரூராட்சிக்கு ஒப்படைக்கப்பட்ட பொது ஒதுக்கீட்டு பகுதியில் ஆக்கிரமிப்பு ஏதும் மேற்கொள்ளக் கூடாது என அறிவுறுத்தப்பட்டுள்ளது. அதே தேதியில் பரவை பேரூராட்சி செயல் அலுவலரால் ந.க.எண். 66 / 2019 -ன்படி பிறப்பிக்கப்பட்டுள்ள நடவடிக்கையில் பேரூராட்சிக்கு ஒப்படைக்கத் தெரிவிக்கப்பட்டுள்ள பொது இடத்திற்கு மனை வரைபட அங்கீகாரம் வழங்கப்பட்டுள்ளது . மேற்படி மனை வரைபடம் ( Lay out ) எனக்கு இன்று தான் ஒப்படைக்கப்பட்டது.

பேரூராட்சி செயல் அலுவலர் அவர்களின் ந.க.எண். 66 / 2019, நாள். 13.05.2020-ன்படி மனையிட அங்கீகாரம் வழங்கப்பட்டுள்ள இடத்தை இணைக்கும் சாலை, நீதிமன்ற வழக்கில் தொடர்புடைய பேரூராட்சிக்கு ஒப்படைக்கப்பட வேண்டிய பொது திறவை இடத்தின் (OSR Lands) வழியாக செல்கிறது.



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மேற்குறிப்பிட்டவாறு பரவை பேரூராட்சி செயல் அலுவலரால் ஒரே நாளில் பரவை பேரூராட்சிக்கு ஒப்படைக்கப்பட்ட பொது ஒதுக்கீட்டு பகுதியில் ஆக்கிரமிப்பு எதுவும் மேற்கொள்ளக் கூடாது என அறிவித்தும் அதே இடத்திற்கு மனை வரைபட அங்கீகாரம் வழங்கியும் உத்தரவிடப்பட்டுள்ளது சந்தேகத்திற்கு இடமளிக்கும் வகையிலும் தவறாக வழி நடத்தும் வகையிலும் உள்ளது.

மேலும் நீதிமன்றத்தில் பரவை பேரூராட்சிக்கு ஒப்படைக்கத் தெரிவிக்கப்பட்டுள்ள பொது சொத்துக்களை மதுரை இராமநாதபுரம் மாவட்ட வங்கி ஊழியர் அமைப்பு ஒப்படைக்கும் வரை அந்த இடத்தில் எந்தவொரு பணிகளும் மேற்கொள்ளக் கூடாது எனத் தெரிவிக்கப்பட்டு வழக்கு நிலுவையில் உள்ள நிலையில் அந்த இடத்தில் பணிகள் நடைபெற்று வருகிறது.

## 2. பரவை பேரூராட்சி செயல் அலுவலர் / எதிர் மனுதாரரின் வாதம்

மனுதாரர் பரவை பேரூராட்சிக்கு ஒப்படைப்பு செய்ய வேண்டி தெரிவிக்கப்பட்டுள்ள இடங்கள் எனக் குறிப்பிட்டுள்ள இடங்களின் சர்வே எண்ணும் பரவை பேரூராட்சி செயல் அலுவலரின் நடவடிக்கைகள் ந.க.எண். 66 / 2020 நாள். 13.05.2020 -ன்படி மனை வரைபடம் அங்கீகரிக்கப்பட்டுள்ள இடங்களின் சர்வே எண்ணும் வெவ்வேறானவை இரண்டு இடங்களுக்கும் எந்தத் தொடர்பும் இல்லை. மேலும் பேரூராட்சிக்கு ஒப்படைப்பு செய்ய தெரிவிக்கப்பட்டுள்ள இடத்தில் பாதாள சாக்கடை திட்டம் அமைப்பதற்கான மாதிரி போடப்பட்டுள்ளது. அந்த இடங்கள் தற்சமயம் போக்குவரத்திற்கு மட்டுமே பயன்பாட்டில் உள்ளதாக தெரிய வந்த நிலையில் சம்பந்தப்பட்ட நபருக்கு பரவை பேரூராட்சி அறிவிப்பின் மூலம் விதிமுறைகளை மீறி ஆக்கிரமிப்பு செய்யக் கூடாது என எச்சரிக்கப்பட்டது. தற்சமயம் பேரூராட்சிக்கு ஒப்படைக்க வேண்டிய பொது திறவை இடத்தை சுற்றிலும் வேலி அமைக்க நடவடிக்கை மேற்கொள்ளப்பட்டு வருகிறது.

## மாவட்ட ஆட்சித் தலைவர் அவர்களின் விசாரணை

மாவட்ட ஆட்சித்தலைவர் பரவை பேரூராட்சி செயல் அலுவலரிடம் எந்த காரணத்திற்காக திரு. பாலமுருகன் என்பவருக்கு ந.க.எண். 66 / 2019 -ல் 13.05.2020 மற்றும் 19.08.2020 ஆம் நாளிட்ட அறிவிப்பு வழங்கப்பட்டது என விசாரிக்கப்பட்டது. அதற்கு பேரூராட்சி செயல் அலுவலர் அந்த இடம் மனைதாரர்களால் போக்குவரத்திற்கு பயன்படுத்தப்பட்டு வந்தது. பேரூராட்சிக்கு ஒப்படைக்கப்படவேண்டிய பொது சொத்து தொடர்பாக நீதி மன்றத்தில் வழக்கு நிலுவையில் உள்ளதால் தனி நபர்களால் ஆக்கிரமிப்பு செய்வதை தடை செய்யும் நோக்கத்துடன் திரு.பாலமுருகன் என்பவருக்கு மேற்படி அறிவிப்பு (Notice) வழங்கப்பட்டதாக தெரிவித்தார்.

மேலும் உள்ளாட்சி அமைப்புக்கு ஏற்கனவே ஒப்படைப்பு செய்யப்பட்ட வழக்கில் தொடர்புடைய இடத்தினை தனிநபர் எவரும் விதிமுறைகளை மீறி ஆக்கிரமிப்பு செய்யாத



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வகையில் அந்த இடத்தினை எல்லை வரையறை செய்து சுற்றி கம்பி வேலி மற்றும் பூங்கா அமைத்திட உடனடியாக நடவடிக்கை மேற்கொண்டு வேலி அமைக்கும் பணி முடிவுற்ற நிலையில் புகைப்படம் எடுத்து இரு தினங்களுக்குள் சமர்ப்பிக்குமாறும் அறிவுறுத்தப்பட்டது. உயர்நீதிமன்ற இடைக்கால உத்தரவின்படி ஒப்படைக்க வேண்டிய பொது இடத்தினை AIBEa நகர் உருவாக்கிய தனிநபர்கள் விரைந்து ஒப்படைப்பு செய்திடும் வகையில் உரிய நடவடிக்கை மேற்கொண்டு, மேற்படி இடங்கள் பேரூராட்சிக்கு ஒப்படைக்கப்பட்ட பின்னர் அந்த இடத்தில் சுற்றுச் சுவர் எழுப்பி பூங்கா அமைத்து பொது மக்கள் பயன்பாட்டிற்கு கொண்டு வர உரிய நடவடிக்கை மேற்கொள்ளுமாறும் அறிவுறுத்தப்பட்டது.

(ஓம்/-)டி.ஜி.வினய்  
மாவட்ட ஆட்சித்தலைவர்,  
மதுரை.

பெறுநர்

1. திரு.க.அழகர்சாமி,  
செயலர், AIBEa நகர் குடியிருப்போர் நலச் சங்கம்,  
பிளாட் எண். 396.  
AIBEa நகர், B காலனி, பரவை, மதுரை.

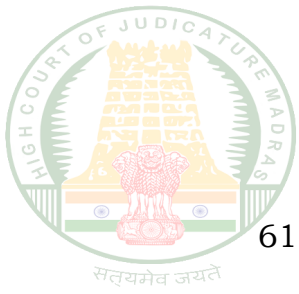
பதிவு தபால் - அப்புகை  
அட்டைபட்டி.

2. திரு.சுந்தரராஜன்,  
பொது செயலாளர்,  
மதுரை மற்றும் இராமநாதபுரம் மாவட்ட வங்கிப் பணியாளர்கள் அமைப்பு.
3. உதவி இயக்குநர் (பேரூராட்சி)(பொறுப்பு), மதுரை.
4. செயல் அலுவலர்,  
பரவை பேரூராட்சி, மதுரை.

// உண்மை நகல் உத்தரவுபடி //

பி.அ. 17/9/20  
மாவட்ட ஆட்சித்தலைவரின்  
நேர்முக உதவியாளர்(வளர்ச்சி)  
மதுரை.

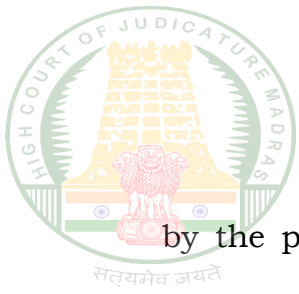
14/9/2020



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61.A careful perusal of the operative portion of the inquiry report of the 5<sup>th</sup> respondent District Collector dated 17.09.2020, would reveal that the said inquiry was initiated by the District Collector based on to the complaint made by the petitioner association dated 09.09.2020, with respect to the proceedings of the 8<sup>th</sup> respondent Paravai Town Panchayat in Na.Ka.No.66/2020 dated 13.05.2020, by which final approval of the Sivathanya layout has been accorded including certain properties, which are already the subject matter of the Writ Petitions in W.P.(MD)Nos.7245 of 2013 and 24757 of 2016, in which the District Collector had already filed a comprehensive counter affidavit pointing out those properties which are yet to be handed over to the 8<sup>th</sup> respondent Town Panchayat by the promoters of the AIBEA Nagar layout. The Executive Officer of the 8<sup>th</sup> Respondent Town Panchayat who appeared before the District Collector in the said inquiry had reported that the said property has been used utilized by the petitioner association for their ingress and egress.

62.However, since the said property is the subject matter of those Writ Petitions pending before this Court, the proceedings in Na.Ka.No.66/2019 dated 13.05.2020, was given in favor of the 11<sup>th</sup> respondent ensuring that the said property would be safeguarded and precisely preventing the 11<sup>th</sup> respondent from utilizing the said area. Recording the same, the 5<sup>th</sup> respondent District Collector proceeded to direct the 8<sup>th</sup> respondent Town Panchayat to demarcate those property which has already been handed over

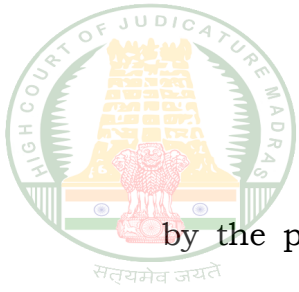


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by the promoters of AIBEA Nagar layout to the 8<sup>th</sup> respondent Panchayat and put up fence around the same within 2 days and report back to the 5<sup>th</sup> respondent District Collector by the said report dated 17.09.2020. Precisely, the direction given by the 5<sup>th</sup> respondent District Collector was directing the 8<sup>th</sup> respondent to put up fence around only those properties, which were already been handed over by the promoters of AIBEA Nagar layout to the 8<sup>th</sup> respondent Town Panchayat.

63.However, I am at loss to understand how the fence came to be put up by the 8<sup>th</sup> respondent Panchayat around the 37,900 square feet in plot No.116B comprised in Survey Nos.138 and 150, which is shown in the comprehensive counter affidavit of the District Collector as well as the proceedings of the 8<sup>th</sup> respondent Panchayat in Na.Ka.No.25/2011 dated 09.11.2012, as that area which is yet to be handed over to the 8<sup>th</sup> respondent Town Panchayat. I am also astounded by the way in which the said area is shown as fenced area by the 8<sup>th</sup> respondent Town Panchayat in his proceedings bearing Na.Ka.No.25/2011 dated 09.11.2012, which was passed even before 8 years from the date of the 5<sup>th</sup> respondent District Collector, directing the 8<sup>th</sup> respondent to put up fence around those areas which were already been handed over to the 8<sup>th</sup> respondent Panchayat.

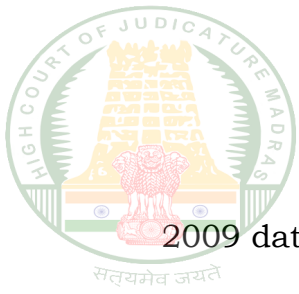
64.That apart, a careful perusal of the affidavit filed by the petitioners in W.P.(MD)Nos.7245 of 2013 and 24757 of 2016 and the complaint made



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by the petitioner association dated 09.09.2020, to the respondents, more particularly, pursuant to which, the District Collector conducted an inquiry on 07.09.2020 is conspicuously silent about the judgment and decree passed by the learned District Munsif Court, Madurai, in O.S.No.4 of 2009 on 23.12.2010, restraining the petitioner association from interfering with the peaceful possession and title of the property gifted by the gift deed dated 09.04.2014, by the plaintiff therein in favor of the 8<sup>th</sup> respondent Panchayat by the petitioner association. The petitioner association is either the writ petitioner or the respondent in all those Writ Petitions, which are already disposed by this Court and are still pending, that is, in W.P.(MD)Nos.7245 of 2013, 24757 of 2016, 4796 of 2022 and 20809 of 2023.

65.However, I have no hesitation to point out that, in none of those Writ Petitions, the petitioner association has brought to the notice of the Court as to the judgment and decree suffered by the petitioner association in the civil suit in O.S.No.4 of 2009 on the file of the learned District Munsif Court, Madurai, dated 23.12.2010. Even before the inquiry conducted by the District Collector on 07.09.2020, at the instance of the application dated 09.09.2020, submitted by the petitioner association digladiating against the proceedings of the 8<sup>th</sup> respondent Panchayat in Na.Ka.No.66/2020 dated 13.05.2020, giving final approval to the Sivathanya layout promoted and developed by the 11<sup>th</sup> respondent, the petitioner association had wantonly failed to disclose the decree and judgment suffered by them in O.S.No.4 of



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2009 dated 23.12.2010.

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66.It is only under such background, the 5<sup>th</sup> respondent District Collector directed the Executive Officer of the 8<sup>th</sup> respondent Town Panchayat to demarcate the area of those properties, which are already handed over by the promoters of the AIBEA Nagar layout to the 8<sup>th</sup> respondent panchayat and put a fence around the said properties. However, it is significant to reiterate that the property situated to the north of the Sivathanya layout, which is claimed by the petitioner association as that area which has been allocated for the purpose of establishing a park has not been handed over by the promoters of the AIBEA Nagar association even after a direction precisely from the Government by G.O.(2Pa)No.141 dated 30.11.2000 and the proceedings of the 8<sup>th</sup> respondent Panchayat in Na.Ka.No.25/2011 dated 09.11.2012, requiring to hand over the properties allocated for OSR purposes to the 8<sup>th</sup> respondent Panchayat.

67.Having not done so, in terms of G.O.(2P)No.141 dated 30.11.2000 and the proceedings of the 8<sup>th</sup> respondent Panchayat Na.Ka.No.25/11 dated 09.11.2012 and in the background of the withdrawal of the Writ Petition in W.P.(MD)No.7245 of 2013 by the promoters of AIBEA Nagar layout on 09.08.2023 before the Hon'ble Division Bench of this Court with liberty to challenge the order of the Government where there was a condition that requires the promoter to reserve some lands for public purpose and to

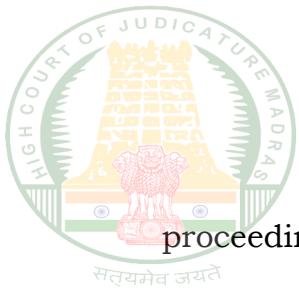


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donate the same to the local body, now the petitioner association cannot claim that the ABEA Nagar layout is an approved layout by all means. Not even a single bit of document has been produced by the petitioner association to substantiate their claim that the AIBEA Nagar layout is a properly approved layout in terms of the provisions of the Tamil Nadu Town and Country Planning Act, 1971.

68.Having failed to hand over the properties mentioned by the 8<sup>th</sup> respondent panchayat in proceedings bearing Na.Ka.No.25/2011 dated 09.11.2012, the promoters of the AIBEA Nagar layout have failed to challenge the Government Order in G.O.(2Pa)No.141 dated 30.11.2000, in terms of the liberty given to them in W.P.(MD)No.7245 of 2013 dated 09.08.2023, so far. However, in W.P.(MD)No.24757 of 2016 dated 09.08.2023, the promoters of AIBEA Nagar layout have given an undertaking before the Hon'ble Division Bench of this Court, not to sell any plot in respect of any portion which is reserved for community hall or for public purpose. The petitioner association has suffered the judgment and decree in O.S.No.4 of 2009 dated 23.12.2010, with respect to 86.500 cents land comprised in Survey Nos.151/1 and 132/4 of Paravai Ist Bit Village.

69.Having suffered a judgment and decree in the hands of the learned District Munsif Court, Madurai, it is interesting to understand that the property in plot No.163 comprised in Survey No.151/1 in serial No.12 of the

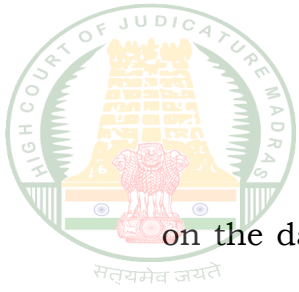


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proceedings in Na.Ka.No.25/2011 dated 09.11.2012, it is shown that the said property has already been handed over by the promoters of AIBEA Nagar layout to the 8<sup>th</sup> respondent Town Panchayat. The civil suit was only between the owner of the property that is Tmt.K.Manonmani, wife of Kannappa Chettiar and the petitioner association. Neither the 10<sup>th</sup> respondent Town Panchayat nor the 5<sup>th</sup> respondent District Collector were parties to the aforesaid civil suit.

70.It is the considered view of this Court that, neither the 8<sup>th</sup> respondent Town Panchayat nor the District Collector are necessary parties to the aforesaid suit because on the date of laying the aforesaid suit, the entire AIBEA Nagar layout was not duly approved by the 8<sup>th</sup> respondent Town Panchayat or by the 6<sup>th</sup> respondent and only certain bits and parcels of layout plan for house sites were approved by the 8<sup>th</sup> respondent Panchayat by that time. Without preferring an appeal as against the said judgment and decree in O.S.No.4 of 2019 dated 23.12.2010, the petitioner association suppressing the said judgment and decree, had handed over the subject/suit property in O.S.No.4 of 2009 to the 8<sup>th</sup> respondent Panchayat, as if the said property is allocated for OSR purposes for the AIBEA Nagar layout. The said exercise of the petitioner association is *per se* illegal.

71.According to the proceedings in Na.Ka.No.25/2011 dated 09.11.2012, an area of 37,900 square feet in plot No.116B remained fenced



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on the date of the said proceedings, that is, on 09.11.2012. In terms of the report of the Collector dated 17.09.2020, all those properties handed over by the promoters of the AIBEA Nagar as documented in proceedings of the 8<sup>th</sup> respondent Panchayat in Na.Ka.No.25/2011 dated 09.11.2012 and the Collector's counter affidavit filed before this Court in W.P.(MD)Nos.7245 of 2013 and 24757 of 2016 and all the 17 items of properties were fenced by the 8<sup>th</sup> respondent Panchayat within 2 days from 17.09.2020. This would clearly transpire the fact that, the 5<sup>th</sup> respondent Collector and the 8<sup>th</sup> respondent Town Panchayat Officers were misled at the instance of the petitioner association, who had suppressed the factum of having suffered the judgment and decree in O.S.No.4 of 2009 dated 23.12.2010 and have exercised their powers inadvertantly, by relying on the submissions of the petitioner association by fencing up the area, which was gifted by Tmt.Manonmani for the purpose of putting up a road for the Sivathanya layout by gift deed dated 09.04.2014.

72.It is under these circumstances, one of the purchaser, namely, Thiru.K.Muniyandi, made a representation to the 8<sup>th</sup> respondent Panchayat to remove the fence, which has been put up by the 8<sup>th</sup> respondent Town Panchayat in the land gifted for the purposes of putting up a road to the 8<sup>th</sup> respondent Panchayat. On receipt of reply, the proceedings in Na.Ka.No. 305/2021 dated 30.01.2021, from the 8<sup>th</sup> respondent Panchayat stated that Thiru.Muniyandi's representation would be considered subject to the

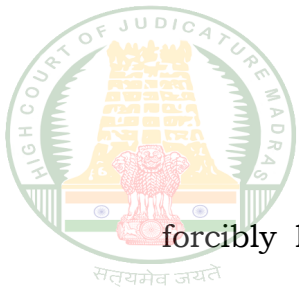


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outcome of the Writ Petitions in W.P.(MD)Nos.7245 of 2013 and 24757 of 2016. It is only under such background, the said communication of the 8<sup>th</sup> respondent Panchayat was challenged by Thiru.K.Muniyandi by filing W.P. (MD)No.4796 of 2022 and by Tmt.K.Manonmani by filing W.P.(MD)No.20809 of 2023, seeking to set aside the aforesaid communication/proceeding of the 8<sup>th</sup> respondent Panchayat and to remove the fence made around the roads in the approved layout Na.Ka.No.66/2019 dated 13.05.2020.

73.Even after the disposal of the Writ Petitions in W.P.(MD)Nos.7245 of 2013 and 24757 of 2016 on 09.08.2023 by the Hon'ble Division Bench of this Court, the promoters of the AIBEA Nagar layout failed to hand over the entire area which was allocated for OSR purposes as required by the Government Order in G.O.No.141 dated 30.11.2000 and hence the proceedings of the 8<sup>th</sup> respondent Town Panchayat in Na.Ka.No.25/2011 dated 09.11.2012, holds good even now in terms of the order passed by the Hon'ble Division Bench of this Court on 09.08.2023 in W.P.(MD)No.24757 of 2016.

74.It is only under such circumstances, despite the pendency of W.P. (MD)Nos.4796 of 2022 and 20809 of 2023, the writ petitioner association herein has filed this Writ Petition on the premise that the 11<sup>th</sup> respondent had removed the fence put up by the 8<sup>th</sup> respondent Panchayat on the direction of the 5<sup>th</sup> respondent Collector on 19.09.2020 and thereafter, had



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forcibly laid road in the area in the OSR area reserved by AIBEA Nagar layout.

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75.Though the Executive Officer of the 8<sup>th</sup> respondent Panchayat has filed a counter affidavit before this Court in this Writ Petition in an evasive manner, the learned Additional Advocate General Mr.Veera Kathiravan, appearing for the respondents 1 to 8, fairly conceded the fact that, the instant case is a case of mischief by all, more particularly, by the writ petitioner association and by the 11<sup>th</sup> respondent, who is the promoter of Sivathanya layout to the south of AIBEA Nagar layout. Having suffered a judgment and decree in O.S.No.4 of 2009 dated 23.12.2010 and having not preferred an appeal as against the same, the writ petitioner association had conducted the Writ Petitions in W.P.(MD)Nos.7245 of 2013, 24757 of 2016, 4796 of 2022, 20809 of 2023 and the instant Writ Petition by suppressing the factum of having suffered judgment and decree in O.S.No.4 of 2009 with respect to the property which has already been donated by Tmt.Manonmani, wife of Kannappa Chettiar, by registered gift deed in favor of the 8<sup>th</sup> respondent Panchayat on 09.04.2014.

76.Similarly, the 11<sup>th</sup> respondent who developed the Sivathanya layout during the pendency of W.P.(MD)Nos.4796 of 2022 and 20809 of 2023, had forcibly removed the fence put up around the properties, which were handed over by the promoters of AIBEA Nagar layout to the 8<sup>th</sup> respondent Town

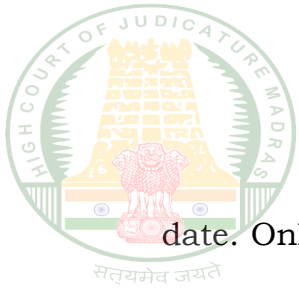


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Panchayat and a portion in plot No.116B, which is yet to be handed over and had laid a road for the purpose of Sivathanya layout in terms of the gift deed executed by him in favor of the 8<sup>th</sup> respondent Panchayat. It is only under such background, when the petitioner association made a complaint before the jurisdictional police station, namely, Samayanallur Police Station, the investigating officer refused to meddle in the civil matter which is a subject matter of O.S.No.4 of 2009 dated 23.12.2010 on the file of the learned District Munsif Court, Madurai Taluk, by which the petitioner association had suffered a judgment and civil decree.

77.Though the learned Additional Advocate General has pointed out that in the presence of disputed question of facts, both the parties, that is, the petitioner association and the 11<sup>th</sup> respondent, may be directed to approach the competent civil Court for appropriate remedy. Now, the question which has to be decided by this Court is as to whether the *lis* in hand has to be disposed of directing the petitioner association and the 11<sup>th</sup> respondent to approach the competent civil suit for civil Court for appropriate remedy/relief.

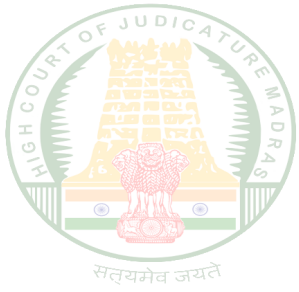
78.Though the various layout plan of house sites dated 22.04.1985, 26.04.1985, 30.04.1985, 07.05.1985, 15.05.1985 and few layout plan house sites of the year 1985 was approved by the 8<sup>th</sup> respondent Town Panchayat in bits and parcels, the same was not approved by the 6<sup>th</sup> respondent till



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date. Only due to the lapse on the part of the promoters of the AIBEA Nagar layout and the petitioner association to hand over the property allocated for Open Space Reservation (OSR) purposes in terms of G.O.(2P)No.141 dated 30.11.2000, issued by the Government and the consequent proceedings of the 8<sup>th</sup> respondent panchayat bearing Na.Ka.No.25/11 dated 09.11.2012 holds good till date. It is needless to state that, only because of the lapse on the part of the petitioner association and the promoters of AIBEA Nagar layout, so far the 6<sup>th</sup> respondent has not accorded any proper approval to the layout in accordance to the provisions of Tamil Nadu Town and Country Planning Act, 1971, thereby issuing a composite layout plan of AIBEA Nagar to the petitioner association.

79.As claimed by the learned Senior Counsel for the petitioner association, the Government Order in G.O.(2Pa)No.141 dated 30.11.2000, is neither an approval of the AIBEA Nagar layout in terms of the Tamil Nadu Town and Country Planning Act, 1971, nor the same has been issued in exercise of the power of the Government under Section 113 of the Town and Country Planning Act, 1971. A careful perusal of the said Government Order would reveal that, there is not even a whisper about Section 113, providing for such an exception for being considered for regularization of the same. The said Government Order is only a conditional order, directing the petitioner association to surrender 10% of area allocated for the Open Space Reservation purposes forthwith.



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80. As far as the approval accorded by the 8<sup>th</sup> respondent Town Panchayat in bits and parcels to the various house site plans to the AIBEA Nagar layout is only a site approval, which is a formality which could be done only after the approval of the layout accorded by the 6<sup>th</sup> respondent. However, in the instant case, at no point of time, the 6<sup>th</sup> respondent has accorded any kind of approval to the AIBEA Nagar layout and not even a single bit of document could be produced by the petitioner association before this Court in this regard and hence, the approval accorded by the 8<sup>th</sup> respondent to any part of the layout plan of house sites with respect to AIBEA Nagar layout in the absence of approval of layout granted by 6<sup>th</sup> respondent is *per se* illegal.

81. In fact, so far neither the petitioner association nor the promoter of the AIBEA Nagar layout have made any application for permission under Section 49 of the Tamil Nadu Town and Country Planning Act, 1971, to the appropriate planning authority for permission, that is, the 6<sup>th</sup> respondent herein. However, the 11<sup>th</sup> respondent along with one M.Balamurugan and 5 others made an application before the 6<sup>th</sup> respondent vide application file No. 3573/2018/Mathi.2 dated 20.06.2019, under Section 49 of the Tamil Nadu Town and Country Planning Act, 1971. The same was duly considered and in-principle approval issued by the 6<sup>th</sup> respondent in proceedings bearing Na.Ka.No.3663/2019/Mathi.2 dated 03.03.2020. Pursuant to the same, the



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8<sup>th</sup> respondent by proceedings in Na.Ka.No.66/2019 dated 13.05.2020, accorded final approval to Sivathanya layout developed by the 11<sup>th</sup> respondent subject to certain conditions

82. The learned Senior Counsel for the petitioner association relies on a condition in the proceedings dated 13.05.2020, in which the 11<sup>th</sup> respondent was directed not to use the land on the northern side as road as it belongs to the 8<sup>th</sup> respondent Town Panchayat. A careful perusal of the aforesaid proceeding would throw light on the fact that the said third condition is a superfluous clause, which is bereft of the details as to the area of the property belonging to the 8<sup>th</sup> respondent Panchayat and the relevant survey numbers and the boundaries thereat. Though the learned Additional Advocate General pointed out that it is necessary for the 11<sup>th</sup> respondent to file a modification application to take off the aforesaid third condition in the proceedings of the 8<sup>th</sup> respondent Town Panchayat dated 13.05.2020, I make it clear that, the said superfluous third Clause cannot be given effect to by the respondent authorities in its very nature and construct.

82.1. In such circumstances, the petitioner association and the eighth respondent panchayat were unable to point out any land by clear description of survey number, location and area with which the 11<sup>th</sup> respondent had violated possibly for the purpose of laying road, I am of the



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considered view that the said third condition in the said proceedings is nothing but otiose.

83.The fact in issue is that the land lying in the north of the 11<sup>th</sup> respondent's layout is as to whether the same belong to one Manonmani in Survey No.161/1A1A or the same is a part of the property handed over or yet to be handed over by the petitioner association or AIBEA Nagar layout promoters towards the OSR land reserved for the AIBEA Nagar. The said fact in issue has already been adjudicated between Tmt.Manonmani, wife of Kannappa Chettiar, and the petitioner association in O.S.No.4 of 2009 and finally, a judgment and decree dated 23.12.2012, has also been passed in favour of Manonmani as against the petitioner association, thereby injuncting them from interfering with the peaceful possession and enjoyment of the said property by Tmt.Manonmani.

84.Having not preferred an appeal for more than 15 years, it is brought to the notice of this Court by the learned Senior Counsel that only pending this writ petition, the petitioner association has preferred an appeal and the same is pending in delay condonation stage. The petitioner association have suppressed the factum of suffering a judgment and decree in O.S.No.4 of 2009 all through from the very instance of impleading themselves as respondents in W.P.(MD)No.7245 of 2013 filed by the promoter of AIBEA Nagar layout, challenging the proceeding of the 8<sup>th</sup>



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respondent Panchayat bearing Na.Ka.No.25/2011 dated 09.11.2012, requiring the promoter to hand over the properties allocated for OSR purposes in AIBEA Nagar, till date, the petitioner association had suppressed the factum of having suffered the said civil decree.

85.Hence, I have no hesitation to hold that the petitioner association did not approach this Court with clean hands and it is only under the background of having not informed about the decree and judgment suffered by the petitioner association in O.S.No.4 of 2009 dated 23.12.2010, on the file of the learned District Munsif Court, Madurai Taluk, the 5<sup>th</sup> respondent District Collector had conducted an inquiry in an application dated 09.09.2020, made by the petitioner association directed the 8<sup>th</sup> respondent Town Panchayat to fence those properties pertaining to the OSR area of AIBEA Nagar, which are already handed over to the 8<sup>th</sup> respondent Panchayat. Had he been informed of the judgment and decree in O.S.No.4 of 2009 on the file of the learned District Munsif Court, Madurai taluk, the question of passing such an order directing the 8<sup>th</sup> respondent to fence up the so called alleged OSR area of AIBEA Nagar layout would not have arisen and for the mistake and suppression played by the petitioner association, the 5<sup>th</sup> respondent Collector could not be faulted with.

86.The Hon'ble Supreme Court in the case of ***K.D.Sharma versus***



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**Steel Authority of India Limited and Others<sup>3</sup>**, has held that “36. ....If the applicant makes a false statement or suppresses material fact or attempts to mislead the Court, the Court may dismiss the action on that ground alone and may refuse to enter into the merits of the case by stating, “we will not listen to your application because of what you have done.” The rule has been evolved in the larger public interest to deter unscrupulous litigants from abusing the process of Court by deceiving it.”

87.In the instant case as elaborated supra, the petitioner association all through its proceedings in the various Writ Petitions before this Court and even before the enquiry conducted by the 5<sup>th</sup> respondent Collector had wantonly suppressed the material fact of having suffered a civil decree in O.S.No.4 of 2009 on the file of the learned District Munsif Court, Madurai Taluk, dated 23.12.2010, including the instant Writ Petition. Having not taken any steps positively to comply with the conditions of the Government Order bearing G.O.(2Pa)No.141 dated 30.11.2000 and also to the directions of the 8<sup>th</sup> respondent Town Panchayat vide proceedings in Na.Ka.No. 25/2011 dated 09.11.2012, for more than nearly 15 years, the writ petitioner association has filed this petition on the premise that the AIBEA Nagar layout is an approved layout and on the contrary, the same is not in terms of the Tamilnadu Town and Country Planning Act, 1971, as already elaborated supra. Hence, though this Writ Petition is liable to be thrown out

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<sup>3</sup> Supra 1

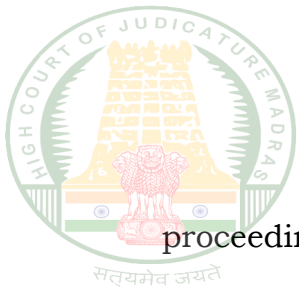


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at its threshold, considering the nature of the complexity involved, which would affect the innocent purchasers of the layouts involved in both the petitioner AIBEA Nagar layout as well as the Sivathanya layout developed by the 11<sup>th</sup> respondent, I have gone into the merits of this case.

88.That apart, having not able to hand over the entire area allocated for OSR purposes and interestingly, having handed over certain portions of property belonging to Tmt.Manonmani, as the property allocated for the alleged OSR purposes of AIBEA Nagar layout, suppressing all these facts this Writ Petition is laid. In the meanwhile, the 11<sup>th</sup> respondent promoter who developed Sivathanya layout executed as many as five road gift deeds dated 09.04.2014, 31.05.2016, 25.02.2020 and 06.10.2020 for the purpose of laying road for Sivathanya layout in favor of the 8<sup>th</sup> respondent Town Panchayat.

89.Pursuant to the same, the Member Secretary of Local Planning Authority accorded in-principle approval and in proceedings bearing Na.Ka.No.3663/2019/Mathi.2 dated 03.03.2020, in terms of the road pattern approval accorded by the 8<sup>th</sup> respondent Panchayat on 21.02.2020. Following which, the final approval in Na.Ka.No.66/2019 dated 13.05.2020, was also accorded by the 8<sup>th</sup> respondent panchayat. Only under such circumstances, the petitioner association claiming that the final approval accorded to the 11<sup>th</sup> respondent by the 8<sup>th</sup> respondent Town Panchayat in

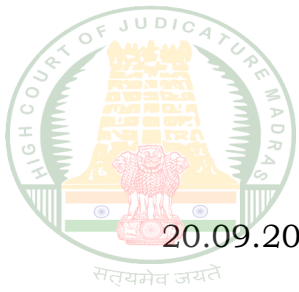


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proceedings in Na.Ka.No.66 of 2019 dated 13.05.2020, interferes and the road pattern of approval of the same interferes with the area allocated for the Open Space Reservation purposes by the AIBEA Nagar layout made a complaint before the 5<sup>th</sup> respondent District Collector and other respondents 1 to 7 by complaint dated 09.09.2020.

90.It is only in response to the aforesaid complaint made by the petitioner association, the 1<sup>st</sup> respondent District Collector conducted an inquiry. Following which, the inquiry report vide proceedings in Na.Ka.No. 23247/2020/Vu.Va.11 dated 17.09.2020, came to be issued directing the 8<sup>th</sup> respondent to put a fence around those OSR area, which was already handed over by the AIBEA Nagar to the 8<sup>th</sup> respondent Panchayat. It is necessary to mention here that even during the said inquiry before the 5<sup>th</sup> respondent Collector, the petitioner association suppressed the material fact of having suffered a civil decree of the learned District Munsif Court, Madurai, in O.S.No.4 of 2009 dated 23.12.2010.

91.The application of the 11<sup>th</sup> respondent and one M.Balamurugan along with five persons in application file No.3573/2018/Mathi.2 dated 20.06.2019, made under Section 49 of the Tamilnadu Town and Country Planning Act, 1971, was duly considered by the 6<sup>th</sup> respondent in terms of G.O.Ms.No.134, Municipal Administration and Water Supply Department dated 20.09.2002. The 11<sup>th</sup> respondent in terms of G.O.Ms.No.134 dated



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20.09.2002, duly handed over the properties earmarked for formation of roads in terms of the approved road pattern to the 8<sup>th</sup> respondent Town Panchayat. Thereafter, on verification of the proposal by the 8<sup>th</sup> respondent Town Panchayat, the proceedings in Na.Ka.No.66/2019 came to be issued. The relevant portion of G.O.Ms.No.134 dated 20.09.2002 is extracted as follows:-

*“(II)The local body should also verify the following points:-*

*(a)that the layout application has been entertained only from the owner of the land or any one possessing a full power of attorney duly registered on his behalf ;*

*(b)that the application is accompanied by up to date and full encumbrance certificate ;*

*(c)authenticated survey sketch from the survey record has been obtained and enclosed. This would include FMB, etc.;*

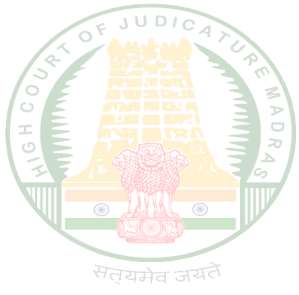
*(d)that the land or which a layout is sought for is not directed by any proceedings under the Tamil Nadu Land Reforms (Fixation on Ceiling on Land) Act, 1961, Tamil Nadu Urban Land Ceiling Act, 1978 or the Land Acquisition Act, 1894.*

*(e)that no Government poramboke or land belonging to any public body or quasi-Government body is included in the layout proposal ;*

*(f)that the access to the land is a proper public road which is regularly utilized and maintained as a proper road ;*

*(g)that the layout is not objectionable to other because of water logging, bad drainage, unhealthy surroundings, quarries, burial grounds nearby, or suffer from unsuitability due to obstructions to and natural water course, drainage, etc ;*

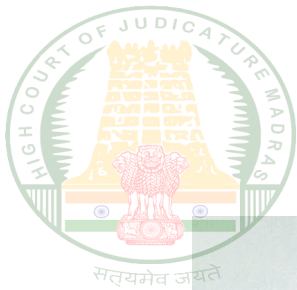
***(i)that details of the local of the exit roads from neighboring layout linking this layout have been noted.”***



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92.The aforesaid G.O. in Clause (II)(i) has mandated that the details of the location of the extant road/roads from the neighboring layout linking the present layout should be noted. The same would make it clear that the exit road from Sivathanya layout in the north should not be closed by the promoters of the AIBEA Nagar layout and the road should be facilitated in such a way that the exit road of Sivathanya layout in the north should have connectivity with the continuing the road of AIBEA Nagar layout. The clarification circular issued by the Director of Town and Country Planning in Roc.No.2915/2006 – I.A2 dated 13.02.2006 and the same is extracted as follows:-



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320/2006-1A2  
Office of the Director of Town and  
Country Planning, 807, Anna Salai,  
Chennai-600 002, Dated: 13.2.2006

Sub: Approval of layouts - Certain Clarifications - Regarding.

I have seen in a number of layouts that came up for approval from the District level Officers, either the road widths are not properly suggested or with the proper road width, the roads end at park sites blocking the access to the adjacent land. The recommendations are forwarded as they are prepared by the applicants/layout owners themselves without any judicious allocation of land for locating areas for public purposes.

In some cases, though there are vacant lands available around the layout area and there is scope for further development as layouts, there is no link given between any two layouts in the area and the road width has not been increased considerably enabling the adjacent vacant land owners to prepare layouts. Taking into consideration of the extent of land available, the length of the road should be extended upto the vacant land in such a way that it ends at the vacant land/adjacent sub-divisions of land. The width of the road in the new layout to be approved should be decided based on the extent of adjoining vacant land available. At any circumstance, such a road in the layout should not end at spaces earmarked as "owners use" which deprives of an access to the adjacent land owner. If such a deliberate attempt is noticed in any of the layouts favouring the parties, it will be viewed very seriously and action taken against the officials responsible. Similarly no park area or OSR should be provided in such a way that the adjacent land owner is being blocked or he is made to suffer for an access.

Once the layout is approved, it may not be possible to rectify on a future date. Also as suggested in the DCK, the normal road width should be provided as follows:

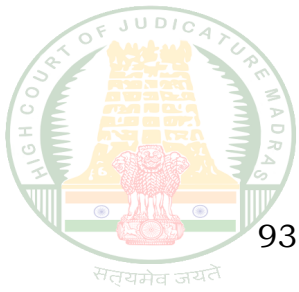
- |                                           |                 |
|-------------------------------------------|-----------------|
| i) Upto 120 m. length                     | 7.00 m. width.  |
| ii) Exceeding 120 m. but below 200 m.     | 9.00 m. width.  |
| iii) More than 200 m. but below 500 m.    | 12.00 m. width. |
| iv) More than 500 m. but less than 750 m. | 16.00 m. width. |
| v) More than 750 m. but less than 1000 m. | 24.00 m. width. |
| vi) More than 1000 m.                     | 30.00 m. width. |

In the interest of forming layouts convenient to the residents/public and also keeping in mind the future developments, the above measures should be strictly adhered to.

16/2/06  
Director of Town and Country Planning.

To  
The Deputy Director/Assistant Director  
in the Headquarters Office.  
All Regional Deputy Directors.  
All Members Secretaries of  
Local Planning Authorities and New Town Development Authorities.

Copy to:  
All Supervisors in the H.Q. Office.



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93.The mandates of the aforesaid circular would make it clear that no park area or OSR of any of the layout should be provided in such a way that the adjacent land owner or layout is being blocked as if to suffer for an access. The instant case in hand is a classical case, which would be covered by the said circular, in which the name of establishment of a park /OSR or area reserved for OSR purpose, the petitioner association in the name of AIBEA Nagar layout, had blocked the access to the adjacent layout, namely, Sivathanya, in the south and the same is *per se* illegal.

98.As far as the jurisdiction of this Court to entertain a Writ Petition under Article 226, which involves both the question of fact and law, the Hon'ble Supreme Court in the case of ***Gunwant Kaur (Smt) and others v. Municipal Committee, Bhatinda and others***<sup>4</sup>, has held as follows:-

*“14. The High Court observed that they will not determine disputed question of fact in a writ petition. But what facts were in dispute and what were admitted could only be determined after an affidavit in reply was filed by the State. The High Court, however, proceeded to dismiss the petition in limine. The High Court is not deprived of its jurisdiction to entertain a petition under Article 226 merely because in considering the petitioners right to relief questions of fact may fall to be determined. In a petition under Article 226 the High Court has jurisdiction to try issues both of fact and law. Exercise of the jurisdiction is, it is true, discretionary, but the discretion must be exercised on sound judicial principles. When the petition raises questions of fact of a complex nature, which may for*

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<sup>4</sup> (1969) 3 SCC 769



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their determination require oral evidence to be taken, and on that account the High Court is of the view that the dispute may not appropriately be tried in a writ petition, the High Court may decline to try a petition. ....”

94.In yet another case of **ABL International Ltd and another v. Export Credit Guarantee Corporation of India Ltd and others**<sup>5</sup>, the Hon'ble Supreme Court has held as follows:-

“16.A perusal of this judgment though shows that a writ petition involving serious disputed questions of facts which requires consideration of evidence which is not on record, will not normally be entertained by a court in the exercise of its jurisdiction under Article 226 of the Constitution of India. This decision again, in our opinion, does not lay down an absolute rule that in all cases involving disputed questions of fact the parties should be relegated to a civil suit. In this view of ours, we are supported by a judgment of this Court in the case of Smt. Gunwant Kaur & Ors. vs. Municipal Committee, Bhatinda and Ors. [1969 (3) SCC 769] where dealing with such a situation of disputed questions of fact in a writ petition.

.....

17.The above judgment of Smt. Gunwant Kaur (supra) finds support from another judgment of this Court in the case of Century Spinning and Manufacturing Company Ltd. & Anr. vs. The UlhasNagar Municipal Council & Anr. [1970 (1) SCC 582] wherein this Court held :-

"Merely because a question of fact is raised, the High Court will not be justified in requiring the party to seek relief by the somewhat lengthy, dilatory and expensive process by a civil suit

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<sup>5</sup> (2004) 3 SCC 553



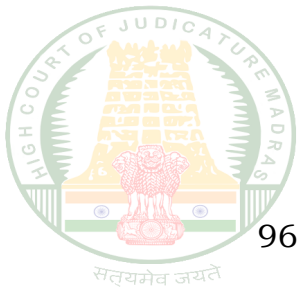
**W.P.(MD)No.27265 of 2024**

*against a public body. The questions of fact raised by the petition in this case are elementary."*

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*19. Therefore, it is clear from the above enunciation of law that merely because one of the parties to the litigation raises a dispute in regard to the facts of the case, the court entertaining such petition under Article 226 of the Constitution is not always bound to relegate the parties to a suit. In the above case of Smt. Gunwant Kaur (supra), this Court even went to the extent of holding that in a writ petition, if facts required, even oral evidence can be taken. This clearly shows that in an appropriate case, the writ court has the jurisdiction to entertain a writ petition involving disputed questions of fact and there is no absolute bar for entertaining a writ petition even if the same arises out of a contractual obligation and or involves some disputed questions of fact."*

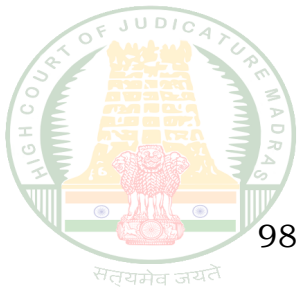
95. A critical consideration of the serious disputed questions of facts involved in this case do not give rise to an instance for consideration of evidence, which is not on record. In the instant *lis*, the disputed question of fact is with respect to a piece of land owned by one Tmt. K. Manonmani, wife of Kannappa Chettiyar, which had been the suit property of the civil suit in O.S.No.4 of 2009 on the file of the learned District Munsif Court, Madurai Taluk, and by judgment and decree dated 23.12.2010, the learned District Munsif Court had passed an order of permanent injunction, restraining the petitioner association herein from interfering with the peaceful possession and enjoyment of the suit property in the aforesaid civil suit.



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96. Pursuant to the same, later the said Manonmani executed a road gift deed dated 09.04.2014, through her Power of Attorney, that is, 11<sup>th</sup> respondent herein in favour of the 8<sup>th</sup> respondent Paravai Town Panchayat for the purpose of laying road to the Sivathanya layout developed by the 11<sup>th</sup> respondent. Accepting the various road gift deeds executed by the 11<sup>th</sup> respondent in favour of the 8<sup>th</sup> respondent Paravai Town panchayat, the Executive Officer of the said Paravai Town Panchayat had approved the road pattern of the Sivathanya layout, vide proceedings dated 21.02.2020.

97.The question as to the ownership and enjoyment of the suit property, which is the subject matter of dispute in O.S.No.4 of 2009 as on the file of the District Munsif Court, Madurai Taluk, as well as this Writ Petition has already been duly adjudicated by examining two witnesses on the side of the plaintiff and one witness on the side of the defendant and marking various documents on the respective sides before the learned District Munsif Court in O.S.No.4 of 2009 and only after weighing the evidence deposed by the respective parties and the perusing the documents and arguments put forth by the respective parties, the learned District Munsif Court passed an order of permanent injunction as against the petitioner association on the basis of the possession and title of Tmt.Manonmani with respect to the suit property and the subject property of the writ in hand.



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98.All other documents placed before me would reveal the fact that the judgment in O.S.No.4 of 2009 dated 23.12.2010, on the file of the learned District Munsif Court, Madurai Taluk, was not challenged by the petitioner association and it is only during the pendency of this Petition, an Appeal has been preferred after a lapse of 15 years and a petition to condone the delay in filing the first appeal is pending before the jurisdictional First Appellate Court.

99.In the meanwhile, all the documents in the sequence as elaborated supra from the date approval of the first layout house site of AIBEA Nagar in bits and parcels by the 8<sup>th</sup> respondent Panchayat by proceedings dated 22.04.1985 till date, the petitioner association has proceeded and dealt with each and every Writ Petition and other proceedings before the competent authorities, suppressing the fact that they have suffered a civil judgment and decree in O.S.No.4 of 2009 dated 23.12.2010 with respect to the subject matter of the writ in hand.

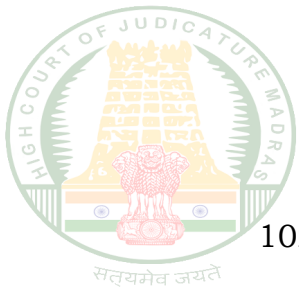
100.Hence, fully fortified by the judgment of the Hon'ble Supreme Court extracted Supra, I am of the considered view that the jurisdiction of this Court under Article 226 of the Constitution can be invoked by considering the extraordinary nature of the facts in issue involved in this case, which has already been properly adjudicated before the learned District Munsif Court in O.S.No.4 of 2009 dated 23.12.2010. If the



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respective parties are relegated back to the jurisdictional civil court for the purpose of adjudicating the *lis* in hand, the same would be at the difficulty and loss of the *n*-number of purchasers of various house sites both in AIBEA Nagar layout as well as Sivathanya layout. Hence, to give quietus to the issue pending before this Court, which has already been finally adjudicated by the learned District Munsif Court, Madurai Taluk, since 2010 till date, I find it necessary to dispose of this Writ Petition.

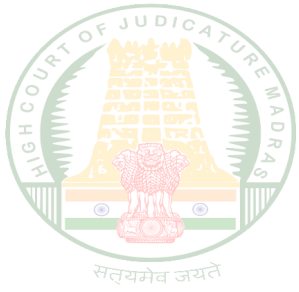
101.The land allocated for Open Space Reservation, that is, OSR purposes, in any of the layout would vest with the local body only on executing a proper gift deed by the promoters, who have developed the said layout in favour of the local body and until and unless the same is executed, the lands could not be considered as vested with the Town Panchayat. In the instant case, in terms of the approved road pattern by proceedings dated 21.02.2020, of the 8<sup>th</sup> respondent Town Panchayat, the 6<sup>th</sup> respondent accorded in-principle approval to the Sivathanya layout and following which, the 8<sup>th</sup> respondent Town Panchayat by proceedings in Na.Ka.No.66/2019 dated 13.05.2020, accorded final approval to the layout developed by the 11<sup>th</sup> respondent. The said exercise was done by the sixth and eighth respondents respectively, only pursuant to the execution of the gift deeds pertaining to the property allotted for laying of roads by the eleventh respondent in favor of the 8<sup>th</sup> respondent panchayat.



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102. On the other hand, the promoters of the AIBEA Nagar layout failed to execute gift deeds pertaining to the entire area allocated for OSR purposes with respect to the AIBEA Nagar layout in favour of the 8<sup>th</sup> respondent Panchayat. Having not done so, the petitioner association do not have any *locus standi* to prevent the 11<sup>th</sup> respondent from laying road in terms of the road pattern approved by proceedings of the 8<sup>th</sup> respondent dated 21.02.2020, in the land gifted by the 11<sup>th</sup> respondent in favor of the 8<sup>th</sup> respondent Panchayat.

103. I have already held that the order of the Collector, directing the eighth respondent to fence those areas which have already been handed over by the AIBEA Nagar layout to the 8<sup>th</sup> respondent Panchayat came to be passed in the background of the petitioner association suppressing the factum of having suffered the civil decree in O.S.No.4 of 2009 on the file of the learned District Munsif Court, Madurai Taluk, and the same itself would amount to contempt of the judicial process, claiming right over the undivided land of Tmt.Manonmadi, wife of Kannappa Chettiyar, comprised in Survey No.161/1A of Paravai Bit 1 Village, in the absence of any injunction or stay in the pending interim application before the jurisdictional first appellate Court for condoning the delay in filing the appeal as against the judgment and decree in O.S.No.4 of 2009 dated 23.12.2010, on the file of the learned District Munsif Court, Madurai Taluk.



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104.As far as the submission of the learned Senior Counsel appearing for the petitioner association as to the high tension line which is prevailing over the land gifted by the promoters of Sivathanya layout in favour of the eighth respondent Panchayat, it is needless to state that the high tension line passes through the petitioner's AIBEA Nagar layout as well.In view of the same, I am of the considered view that the 8<sup>th</sup> respondent Panchayat should take necessary steps, directing the respective promoters of both the Sivathanya layout as well as the AIBEA Nagar layout to relocate the aforesaid high tension line through a feasible alternate plan. However taking into consideration the nature of conflict in this case, the 11<sup>th</sup> respondent should shoulder the responsibility of relocating the high tension line.

105.Last but not the least, it is necessary for the larger interest of the various purchasers of house sites in both the layouts making it clear that the Tamil Nadu Town and Country Planning Act as well as the various rules for the local bodies provides for the development of town by interconnecting all the layouts with arterial roads and the same strictly prohibit any cul-de-sac (dead end) of the road. Hence, no developer of any layout is entitled to close his road at the dead end. The road has to be formed in such a way that it is to connect to the road provided in the adjacent layout. Hence, the initiative of the petitioner association from the very first instance to do away with the promoters of the adjacent Sivathanya layout in the south from



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connecting their road in the north along with the road of AIBEA Nagar layout should be handled in a stringent way by the respondents 6 and 8 respectively.

106.However, it is needless to state that the 11<sup>th</sup> respondent cannot take the law in his own hands by removing the fence put up by the 8<sup>th</sup> respondent panchayat on the direction of the 5<sup>th</sup> respondent District Collector and put up road in terms of the road pattern approved for his layout forcibly. The 11<sup>th</sup> respondent ought to have patiently waited till the disposal of W.P.(MD)Nos.20809 of 2023 and 4796 of 2022. In view of the same, the 11<sup>th</sup> respondent is directed to take necessary steps to relocate the high tension wires passing over both Sivathanya layout and AIBEA Nagar by a feasible alternate plan, in accordance with law, at his cost. Any fence or obstruction either in the road or in the land comprised in Survey No. 161/1A1A, which is a subject matter of the suit in O.S.No.4 of 2009 is not only illegal but also the same would amount to contempt of decree of civil court precisely.

107.I have no hesitation to hold that this Writ Petition itself is highly contemptuous as the same is filed by the petitioner association to circumvent the decree of permanent injunction of the civil court in O.S.No.4 of 2000 on the file of the learned District Munsif Court, Madurai Taluk, dated 23.12.2010, and the filing of this Writ Petition itself would amount to



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gross abuse of process of Court, since this Writ Petition as well as the other Writ Petitions before this Court has been conducted by this petitioner association only by suppressing the factum of having suffering the aforesaid civil decree.

108.It is pertinent to mention at this point that the 5<sup>th</sup> respondent District Collector had wrongly exercised his discretion by directing the 8<sup>th</sup> respondent Panchayat to put up a fence around the OSR areas of the AIBEA Nagar without going into the details of the various properties, which is allotted for the OSR purposes by the promoters of the aforesaid layout. Insisting upon this Court's duty to issue a Mandamus for enforcement of a public duty, I have no hesitation to direct the respondents 6 and 8 to ensure that the road connectivity of Sivathanya layout as well as the AIBEA Nagar layout is interconnected so as to reach the main road.

109.In the background of the reluctance of the petitioner association to hand over the entire area allocated for OSR purposes in the AIBEA Nagar layout is concerned to the 8<sup>th</sup> respondent, by executing appropriate gift deed in favor of the 8<sup>th</sup> respondent, in terms of G.O.(2Pa)No.141 dated 30.11.2000 and the consequent proceedings of the 8<sup>th</sup> respondent dated 09.11.2012, requiring the petitioner association to hand over entire OSR area to the 8<sup>th</sup> respondent Panchayat even after a lapse of 15 years till date, the petitioner association cannot seek a Mandamus against the Town and Country



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Planning Authority to cancel the approval granted to the 11<sup>th</sup> respondents layout, which is granted under Chapter 6 of the Tamil Nadu Town and Country Planning Act, 1971, read with the provisions of Tamil Nadu Regularization of Unapproved Layouts and Plots Rules, 2017. Section 54 of the Tamil Nadu Town and Country Planning Act, 1971, provides for the power of revocation of approval to any layout. The said power is a statutory power bestowed upon the authority under the Act.

110. Making it clear that a statutory duty must exist for a Mandamus to be enforced, this Court cannot exercise the jurisdiction under Article 226 of the Constitution of India to ponder upon the power bestowed under Section 54 upon the respondents 6 and 8 and the manner in which, the said power has to be exercised. The power of revocation and modification of permission to development bestowed under Section 57 of the Tamil Nadu Town and Country Planning Act, 1971, could be exercised by the planning authority, only after giving the person concerned an opportunity of being heard as against such proposed revocation or modification. However, in the instant case, such a situation will never arise because the approval of the layout developed by the 11<sup>th</sup> respondent vide the proceedings of the 8<sup>th</sup> respondent and the 6th respondent as dated 03.03.2002 has been accorded duly in terms of Tamil Nadu Town and Country Planning Act, 1971. If at all the petitioner association is aggrieved by any decision or order of the planning authority under Section 49, more particularly, in the instant case,



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the decision of the planning authority, that is, the 6<sup>th</sup> respondent followed by the proceedings of the 8<sup>th</sup> respondent, the petitioner association ought to have preferred an appeal under Section 79 of the Tamil Nadu Town and Country Planning Act, 1971.

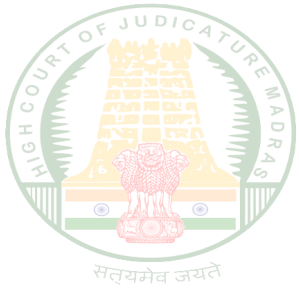
111.Besides the same, the petitioner association could also make an application for revision of decision, with which the petitioner association is aggrieved before the Director of Town and Country Planning under Section 80 of the Tamil Nadu Town and Country Planning Act, 1971. In the presence of an alternate remedy as provided under the Tamil Nadu Town and Country Planning Act, 1971, itself, it is not justified on the part of the writ petitioner association for having filed this Writ Petition by suppressing the material facts. That apart, I make it clear that, this order will not prevent the petitioner from making an application before the 4<sup>th</sup> respondent for approval of AIBEA layout and any application made if any in future, should be dealt with by the authorities concerned in accordance with law.

112.Accordingly, the Writ Petition fails and the same is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

**28.04.2025**

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

99/102



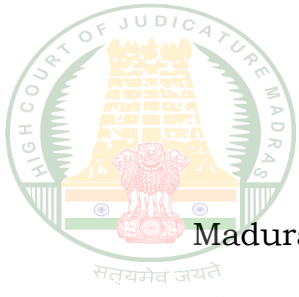
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To

- 1.The Secretary to Government,  
Municipal Administration & Water Supply,  
Department, Government of Tamil Nadu,  
Fort St. George,  
Chennai – 600 009.
- 2.The Secretary to Government,  
Housing and Urban Development Department,  
Government of Tamil Nadu,  
Fort St.George,  
Chennai - 600 009.
- 3.The Commissioner of Town and Country Planning,  
Urban Administrative Office Complex,  
MRC Nagar, Raja Annamalaipuram,  
Chennai - 600 028.
- 4.The Chairman,  
Madurai Local Planning Authority,  
Inspector of Panchayats and District Collector,  
Madurai District,  
Madurai - 625 020.
- 5.The Member Secretary,  
Madurai Local Planning Authority,  
Sector 6, Anayur-Mudakathan Main Road,  
Koodal Nagar,  
Madurai - 625 017.
- 6.The Assistant Director of Town Panchayats,  
District Collectorate Complex,

100/102

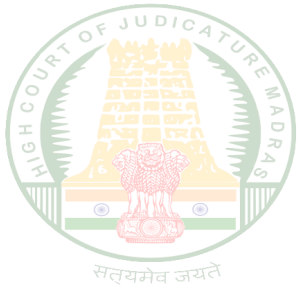


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Madurai - 625 020.

7.The Executive Officer,  
Town Panchayats,  
Paravai,  
Madurai District - 625 402.

8.The Sub Registrar,  
Church Road,  
Vilangudi,  
Madurai District.



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**L.VICTORIA GOWRI, J.**

Mrn

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**28.04.2025**