



WEB COPY



W.P.No.19472 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 27.11.2025

PRONOUNCED ON: 03.02.2026

CORAM:

THE HONOURABLE MR. JUSTICE **V. LAKSHMINARAYANAN**

W.P.No.19472 of 2013

Kanchipuram MM Avenue Residents Welfare Association,
Regd.No.28/2013,
Rep. by its President Mr.T.Murugesan,
No.122, MM Avenue, Kanchipuram Taluk,
Kanchipuram – 631 501. ... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Rural Development and Panchayat Raj
(C2) Department, Fort St. George, Chennai – 600 001.
- 2.The District Collector,
Kanchipuram District, Kanchipuram
- 3.The Director,
Town and Country Planning,
807, Anna Salai, Chennai – 600 002.
- 4.The Deputy Director,
Town and Country Planning,
Vedachala Nagar, Chengalpattu.
- 5.The Secretary,
Local Planning Authority, Town and Country Planning,
Vaikuntaperumal Koil Street, Kanchipuram,
- 6.The Chairman,
Kanchipuram Municipal Council, Kanchipuram.
- 7.The Municipal Commissioner,
Kanchipuram Municipal Council, Kanchipuram.



W.P.No.19472 of 2013

8.Mr.M.Arumuga Mudaliar (died)

9.M.Annamalai (died)

10.S.Gowriammal

11.S.Prabhu

12.S.Mohan

13.Suryakala

14.Aruna

15.P.Shanthi

16.A.Jayakumar

17.Ashok Kumar (died)

18.Vasantha Muthukrishnan (died)

19.Poovalli

20.Anand

21.Gayathri

22.A.Inbasekaran

23.A.Pannerselvan

24.Geetha

25.V.R.M.Gokulakrishnan

26.Baskar

27.Selvi

28.Dhayalan

29.Kesavan

30.Madhavan



W.P.No.19472 of 2013

31.Mohan

... Respondents

(R15 to R17 impleaded as LRS of the deceased R8 vide order of this court dated 23.09.2016 made in WMP.No.28179 of 2016)

(R18 impleaded vide order of this court dated 23.01.2018 made in WMP.No.1 of 2014)

(R19 to R21 impleaded as LRS of the deceased R17 vide order of this court dated 01.03.2021 made in WMP.No.733 of 2021)

(R22 to R31 impleaded as LRS of the deceased R18 vide order of this court dated 10.02.2025 made in WMP.No.27615 of 2024)

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records of the order of conversion dated 19.12.1978 in proceedings No.41445/77 in Plan No.1/78 on the file of the fourth respondent and approval proceedings of the seventh respondent in passing Resolution No.363 (bearing No.19437/1975/F1 dt. 21.08.1980) and to quash the same and consequentially direct the respondents 6 and 7 to develop the vacant land situate in T.S.No.1175/23-1B Kanchipuram Town and District as Playground for the welfare of the petitioner Association.

(Amended as per order dated 30.01.2018 in M.P.No.3 of 2013)

For Petitioner :Mr.T.P.Manoharan, Senior Counsel,
for Mr.Y.Jyothish Chander

For Respondents
1 to 5 :Mrs.C.Meera Arumugam

For Respondents
6 & 7 : Mr.G.B.Rajesh

For Respondents
8 to 13, 15, 16,
19 to 24 :Mr.Abishek Jenasenan



W.P.No.19472 of 2013

For Respondents
25 to 31 : Mr.B.Singavelan

WEB COPY

For Respondents
14 & 17 : No appearance

ORDER

I heard Mr.T.P.Manoharan, learned Senior Counsel for Mr. Jyothish Chander for the petitioner, Mrs.Meera Arumugham, learned Additional Government Pleader for the State respondents, Mr.G.B.Rajesh for the respondents 6 and 7, Mr.Abhishek Jeenasenan for the respondents.8 to 13, 15, 16, 19 to 24 and Mr.B.Singavelan for the respondents 25 to 31.

2. The undisputed facts are as follows:- one, Mr. Munusamy Mudaliar filed an application for development of his property, situated in T.S.No.1175, Ward No.2 of Ottapattaria, Kancheepuram Town and District, into a residential layout. The Director of Town and Country Planning forwarded the application to the Deputy Director, Town and Country Planning, Chennai for appropriate action. On 18.03.1971, the Deputy Director of Town and Country Planning, Chennai approved the layout. Munusamy Mudaliyar sought certain changes in the layout and sent the same for alteration and approval. The alteration sought was also granted on 14.06.1971. The revised layout was placed for approval before the Municipal Council of Kancheepuram by Resolution No.477 dated 31.08.1971, the Municipal Council also approved the same.



W.P.No.19472 of 2013

3. Originally, the area reserved for school and playground was situated in one portion of the property. A request was made to shift the same to the eastern Plot Nos.51 and 52. That too, was granted. Thereafter, the layout, which contained 124 residential plots and shops, were sold. An extent of 1.05 acres was reserved for open space reservation. Pending these changes, Munusamy Mudaliar passed away. After the sale had been made in favour of the members of the petitioner association, a request made to amend the layout plan 28/71, and the revised plan 73/71 by changing the usage from school and playground, to that of a community hall.

4. The members of the petitioner association approached the local councilor and sought his assistance for clearing the bushes that had sprouted in the area and also to construct a compound wall enclosing the area. The idea, being that the area having been earmarked for the benefit of the members of the association, they are entitled to protect the same. The councillor supported this move and the cleaning work commenced on 19.02.2013. At that time, the legal heirs of the original owners, Munusamy Mudaliar and Selvaraja Mudaliar objected to the municipality developing the area reserved as school and playground. They objected to such clearing, on the ground that the land belongs to them. They stated that the land has not been handed over to the Kanchipuram Municipality and by virtue of the amended layout plan, the area reserved for school and playground had been converted to a community hall. Thereafter, the members of the petitioner association caused an enquiry. It was then they came to know that the

Page 5 of 34



W.P.No.19472 of 2013

municipality had initially refused approval. However, citing a wrong provision of law, the land owners got an order as if the change from school & playground to community hall, is deemed to have been approved.

5. The petitioner averred that the members of its association had purchased the property, relying upon the original plan 28/71 and revised plan 73/71. It is their case that the layout owners, Town Planning authorities or the Kanchipuram municipality have no power to convert an area reserved as public space to any other purpose. As it has been so converted, this writ petition challenges all those proceedings.

6. Mr.T.P.Manoharan, learned Senior counsel submitted that once a layout reserves certain space as a public purpose, the title of the layout owners with respect to those areas stand transferred to the municipality. He adds that the omission of the land owners in not executing a gift deed for these areas, does not in anyway impinge the right of the municipality to enter upon, manage and improve the area earmarked for public purpose. He states that the association itself was formed in order to protect the interest of the residents of the layout, as the private respondents objected to the municipality from carrying on the improvement works. Immediately on coming to know of the change in the layout, the petitioner submitted their representations to the State respondent, obtained original approved layout plan and resolutions and are before the court.



W.P.No.19472 of 2013

7. Mr.T.P.Manoharan urges the order that the fourth respondent in converting the area earmarked for a school and playground, is only recommendatory and that, it is the seventh respondent, who has the power to permit such conversions. Placing reliance upon judgments of this court and the Supreme Court, he argues that the area, having been reserved for a school and playground, automatically vests with the municipality and therefore, any conversion is impermissible. Hence, he seeks the writ petition be allowed and the proceedings permitted conversion be quashed.

8. Mrs.Meera Arumugham, relying upon the counter affidavit filed by the State respondent argues that there have been three layout approvals for the land owned by Munusamy Mudaliar. The first technical approval was granted in LP/DTCP/28/71. It was thereafter, revised under LP/DTCPNo.73/71 and finally revised in LP(CR) No.1/78. Relying upon Section 54 of the Tamil Nadu Town and Country Planning Act, she argues that the authorities are entitled to revoke or modify the permission granted for development. She urges that there is no provision under law for intimation of individual plot owners by the DTCP of any change in the plan. She states the implementation of the layout is entirely the responsibility of the convened local body. Referring to the provisions of the Tamil Nadu Town and Country Planning Act, she pointed out that in 1970s, the competent local planning authority and the local body was the Kanchipuram



W.P.No.19472 of 2013

Municipality. Since that local body had forwarded the proposal to the DTCP, the authority had granted technical approval.

WEB COPY

9. The counsel appearing for Kanchipuram Municipality argued that the land owners had given a representation for making changes in the layout. The change sought for were to convert the shop sites and the land adjacent to the shop sites into housing sites and the site reserved for school and playground into a community hall area. Acting on this proposal, the Municipality forwarded the same to the Deputy Director, Town Planning on 14.11.1977. As the Director of Town Planning had approved the revised layout sought by the owners, the subject was placed before the Municipality Council on 10.01.1979. It was deferred to 31.01.1979. On that day, as the Commissioner's Inspection report was not put up, it was adjourned for the said purpose. It was finally, taken up on 23.05.1979 and the Municipality Council refused the request for change in reservation and directed that the area reserved for shops must be used only for shops and the area reserved for school and playground must be reserved as it is.

10. It is the stand of the Kanchipuram Municipality that if a community hall is constructed in the land reserved for school rather than being benefit to the residents, it would only be a nuisance. The land owners were also informed of the said decision on 07.06.1979. Thereafter, the layout owners submitted their representation dated 22.03.1980 stating no orders had been received from the Municipality regarding their request for

Page 8 of 34



modification. The Special Officer, Municipality had sent the issue for legal opinion to its Standing Counsel.

11. The Standing Counsel opined that as the council had not passed final orders within 120 days, in terms of section 176(5) of the District Municipalities Act 1920; it is deemed to have been approved. Following the said opinion, the Municipal Council by its resolution No.363 dated 21.08.1980 approved the revised proposal. The counsel urged that as per the Town Survey Records, the community hall stands in the name of the following persons, namely,

- (i) Annamalai Mudaliar,
- (ii) Arumuga Mudaliar and
- (iii) Selvaraj Mudaliar.

He categorically submitted that the site is vacant, and it has not yet been handed over to the Municipality. The counsel further submitted that being a private land, the municipality cannot encroach upon the same and carry out development works. He urged that as the site has been converted to community hall purpose, it cannot be used for a playground. Any change in the layout requires prior approval of the Director of Town and Country Planning. No such approval is in place as per the Municipal records and it continues to be reserved for community hall. He pleaded that only after getting necessary approvals from the DTCP, a resolution can be passed by the Council. Since there is no instruction from the DTCP to take over the



W.P.No.19472 of 2013

land, the said land is kept vacant. He added that the site can be utilised only for community hall purpose.

WEB COPY

12. The private respondent urged that as per their approved plan, 124 housing sites were laid out. Places were earmarked for shops as well as for school and playground. In addition, a park had also been located within the layout. The owners of the land started selling the house sites only after getting the necessary approvals. They pleaded that they have retained 10 housing plots and sold the remaining ones. As they were not able to identify any purchaser for the school and playground, as originally envisaged, they requested the shifting of the reservation from that place to the south east corner of the layout.

13. The counsel urged that despite making sincere efforts to dispose of the property earmarked for school and playground, there were no takers as those, who were and are in the field of education, found that there are number of schools in the neighborhood and that the extent is a larger one. Being left with an unmarketable property, they made a request to convert the land earmarked for school and playground into a community hall. They stated that they have obtained patta for the land and they are in absolute possession and enjoyment of the same without any interruption from anyone. The counsel pointed out that insofar as the roads and the area reserved for park are concerned, it has been handed over to the Municipality. He argues that, the members of the petitioner association and

Page 10 of 34



W.P.No.19472 of 2013

the State Respondent have no right over the subject matter of the dispute.

He pointed out that the members of the petitioner association had violated the building plans and had put up construction in total violation of the same. Only in order to prevent the Municipality from taking action against these violations, the individual land owners got together, formed an association in the year 2013 and filed the present writ petition.

14. He added that the request of the writ petitioner to construct a compound wall and improve the property is an act of land grabbing, with the assistance of the said authorities. He argues that as the conversion had taken place in the year 1978, moving the writ petition in the year 2013 is hit by laches and hence, the writ petition may be dismissed on that ground also. He made other allegations referring to the affidavit regarding the writ petition having been filed at the instance of one Gokulakrishnan, who was inimically disposed against the private respondents. He argued that the property involved in the writ petition is not an open space reservation as during the relevant time, there was no concept of OSR land.

15. I have carefully considered the submissions of all sides and gone through the records.

16. Since Mr.Abishek Jenasenan pleads that the writ petition is hit by laches, I will address that issue first before proceeding further. Doctrine of laches or acquiescence are equitable doctrines invoked by the court, when

Page 11 of 34



W.P.No.19472 of 2013

the petitioner has been unreasonably lethargic or has implicitly consented to a situation, causing prejudice to the respondents. Laches involves passive delay, while acquiescence implies a more active or an active consent to the state of affairs. In order to invoke the principle of laches, the respondents must convincingly demonstrate before this Court that the petitioner was aware about the changes in the plan and despite the same, had kept quiet over a long period of time. It has been specifically averred by the petitioner that the members of the association were not aware about the modification.

17. Waiver, laches or acquiescence requires

- (i) a full knowledge of the material facts and rights;
- (ii) voluntary and deliberate act of conduct; and
- (iii) an intention act pointing to relinquishment of the right.

When the petitioners were not aware of the order of conversion of the change in user from school or a playground to a community hall, this court cannot put laches, acquiescence or waiver against them. Had they been aware of the proceedings and had kept quiet, perhaps, the laches would be applicable. Since the members of the petitioner association were not aware of the modification, they cannot be imputed with the knowledge about the order. When they came to know about the order in the year 2013, they have immediately approached the court. Hence, it cannot be treated as unreasonable delay. Hence, I reject the argument of Mr.Abishek Jenasenan that the writ petition must be dismissed on the grounds of laches, without going into the merits of the case.



W.P.No.19472 of 2013

18. At the outset, I should point out the reliance placed upon Section 176(5) of the District Municipalities Act by the respondents 6 & 7 to accord sanction is absolutely misplaced. It was on the basis of this Section that the Standing Counsel for the Kanchipuram Municipality had opined that, as no orders had been passed by the Municipality within a period of 120 days, the approval is deemed to have been given. Section 176 of the District Municipalities Act deals with making of new private streets. Under Section 176(1), if any person intends to make or create a new private street, he should make a written application with plans and sections, as pointed out under Section 176(1) (a) to (c). Within 60 days of making such an application, the council can either sanction or reject the proposal. The proviso to Section 176(5) states that if the passing of the order is delayed for more than 60 days, after the council has received all the relevant information, and such application is not disallowed within a period of 120 days, it is deemed to have been sanctioned. This case has nothing to do with a private street. It relates to conversion of an area reserved for school and playground into a community hall. Hence, reliance placed on Section 176 is totally misplaced.

19. It is the argument of Mr.T.P.Manoharan that there is no provision under the Town and Country Planning Act to permit modification of a layout plan. I am not in agreement with Mr.T.P.Manoharan but in entire agreement with Ms.C.Meera Arumugham and Mr.Abishek Jenasenan that the power is

Page 13 of 34



W.P.No.19472 of 2013

available to the appropriate planning authority to revoke or modify a development plan. As to 'What is a development plan' is defined under section 2(15) of the 1971, Act. The said provision reads as follows:

“development plan” means a plan for the development or re-development or improvement of the area within the jurisdiction of a planning authority and includes a regional plan, master plan, detailed development plan and a new town development plan prepared under the Act;

20. If Section 2(15) is read with Section 54, the conclusion that one can arrive is that a Town Planning authority has the power to modify or revoke a development plan. The restriction, that is imposed under section 54, is that before passing an order revoking or modifying the development plan, the planning authority should give an opportunity of hearing to the person concerned, against whom such a revocation or modification is ordered.

21. Mr.Abishek Jenasenan urged that this provision cannot cover the members of the writ petitioner association. I am not in agreement with him. The question of hearing a person, who has filed an application seeking modification, does not arise under Section 54 because he wants the conversion. It is the members of the writ petitioner association, who are aggrieved by any modification or revocation of the development plan. Hence, I am of the view that the authorities before passing the order of modification



W.P.No.19472 of 2013

of a school and playground site into a community hall, ought to have heard the members of the petitioner association or any person, who is opposed to such modification. Admittedly, the order permitting modification had been passed without hearing any of them. This is in stark violation of Section 54(1) and hence, the orders have to be set aside.

22. A perusal of Section 54(2) shows that the authorities will have to hear the owners of the land, only when the owner claims compensation for the expenditure incurred by him in carrying out development subsequent to the original permission, which has been rendered abortive on account of revocation or modification. Hence, when the authority is considering an application for modification at the instance of an owner, the planning authority must necessarily hear the persons opposed to the proposal for modification.

23. I will now deal with the point urged by Mr.T.P.Manoharan that once a plot is reserved for a school and playground, then, it automatically vests with the local body. On this submission, I am not with Mr.T.P.Manoharan. In order for a land to vest with the local body, there should be vesting by law or through a document evidencing transfer of title. It can be in the form of gift deed executed by the land owner in favour of local body, or if the area has been reserved for the public purpose contemplated under Section 36 of the Town and Country Planning Act, by way of any of the acquisition laws. None of these modes of transfer had been

Page 15 of 34



W.P.No.19472 of 2013

done in the present case. The title of the sites in issue continued to be with the original owner. I have to point out here that the area with which we are concerned with, was not the area initially reserved for school and playground. This area was reserved for the said purpose only, after the revised plan. If the title were to vest immediately as such reservation, the shifting of the reservation would not have been possible. Apart from this, it is not disputed that the owners attempted to alienate this property to educationists. As it did not bear fruit, it sought for reclassification. If the title vested with the local body, the owner could not have made efforts to alienate the same to educationists. Further, right to property is a constitutional right. For a person to be deprived of his/her property, the procedure established by law has to be strictly adhered to. There is no provision in law, which results in automatic vesting of land on approval of a layout. Hence, I am not agreeable to the position urged by Mr.Manoharan.

24. I will now deal with the judgments that were relied upon by Mr.T.P.Manoharan.

25. First of the judgments he relied upon is **Bangalore Medical Trust v. B.S.Muddappa and others, (1991) 4 SCC 54**. It was a case arose under the provisions of Bangalore Development Authority Act of 1976. The petitioner therein was allotted a piece of land, which had been reserved for a park by the Bangalore Development Authority. On such allotment, Bangalore Medical Trust proposed to put up a hospital. This was challenged



W.P.No.19472 of 2013

by the petitioners before the High Court. It was pleaded by the respondents that once a property has been reserved for a public park, it cannot be parted away by the Bangalore Development Authority into any other purpose.

26. The Supreme Court relied upon Section 38-A of the Bangalore Development Authority Act, 1976 as amended by the Amendment Act, 17 of 1984, which took away the power of the authority to sell or dispose any area reserved for the public park, playground and civic amenity for any other purpose. The court observed that in the original sanctioned plan, the area had been reserved for a public park and although it was open to Bangalore Development Authority to alter the scheme, no alteration had been made as required under Section 19(4) of the Bangalore Development Authority Act. Hence, the court came to a conclusion that the reservation for a park cannot be converted into a civic amenity.

27. That was a case, where the land was not a private land but a land which belonged to the Bangalore Development Authority. It was a case for transfer of title from the public authority to a private party by way of allotment and not a case of owner of the private land being divested of his title, on account of reservation of the area in a layout plan.

28. The next judgment is ***Pt. Chetram Vashist v. Municipal Corporation of Delhi, AIR 1995 SC 430(1)***. Relying upon paragraph No,6 of the said judgment, he pointed out if any reservation is made in a layout

Page 17 of 34



W.P.No.19472 of 2013

plan, the effect by such reservation is that the original owner ceases to be the legal owner and he holds it for the benefit of the public. Hence, he urged that once Munusamy Mudaliar had shown the land as a school and playground and had sold the plots, he ceases to be the owner thereof.

29. A casual reading of the said judgment might lead one to the conclusion that Mr.Manoharan urges. However, a careful consideration of the facts of the judgment does not lead me to the said conclusion.

30. The civil appeal in that case arose out of a suit for declaration and mandatory injunction filed before the Subordinate Court at New Delhi. The case arose in the following circumstances:

One Pandit Amit Chand submitted a layout plan to the Delhi Development Provisional Authority. It was rejected. The Authority informed him that if he submitted a plan in accordance with the requirements of the Municipal Corporation of Delhi, it would be considered. Hence, Mr.Amit Chand submitted a fresh proposal. As per this plan, he divided the area into 98 residential plots and 7 shops. He reserved few places for the Children Park. In this plan, he had reserved the plots 1 and 2 for the purpose of tube wells measuring 100 ft. x 80 ft. The tubewells were proposed as an interim arrangement till the Municipal Corporation commenced supply of water to the colony. The plan so submitted was approved.



W.P.No.19472 of 2013

31. Later on, the municipal authorities extended water supply to the area. Consequently, that the necessity for continuing with the area reserved for tubewells vanished. Hence, Mr.Amit Chand proposed discontinuation of the reservation over plots 1 and 2 and post the discontinuation, to sell of plots. He applied the Corporation for permission. Before the approval would come through, Amit chand passed away. His son, Chet Ram Vashist persued the application for removal of the restrictions. The Delhi Corporation informed him that as the two plots had been earmarked for tubewells, they will have to be used only for open park.

32. The Standing Committee of the Corporation resolved to permit any building activity only if the owner transferred the open spaces for parks and schools to be transferred to the Corporation free of cost. Challenging this resolution, he filed a suit as stated above.

33. The learned Trial Judge held that the reservation of the two plots for an open park was valid, but declared that the condition for transfer of the sites free of cost to the Corporation is invalid. On an appeal, the First Appellate Court set aside the decree of the trial court with respect to the relief calling upon him to reserve the land as a park. However, it went on to hold that the suit had no cause of action as the Standing Committee had rejected the plan. Against this judgment, the Corporation filed two second appeals before the High Court. One appeal was dismissed as incompetent, since it had been preferred against an observation. Insofar as the other

Page 19 of 34



W.P.No.19472 of 2013

appeal is concerned, the High Court held that the direction to transfer the plots in favour of the municipal corporation was only a transfer of right of management and not title. It further observed that as the land owner had accepted the restrictions imposed when the original plan was approved, he holds the land in trust and his right of ownership stood modified. It also rejected the plea of the land owner that he would manage the property by himself.

34. Against the aforesaid verdict, the owner approached the Supreme Court. The Supreme Court analysed Section 313 of the Delhi Municipal Corporation Act and came to the conclusion that imposition of condition that area specified for park and school should vest in the Corporation free of cost is illegal. It further held that the plea of public purpose cannot be stretched to create a right in favour of the local body, which utmost may be entitled to manage and supervise such areas. It further held the right to manage cannot be treated on par to claim transfer of the property itself. Consequently, instead of setting aside the orders of the High Court and lower appellate court and restoring the decree of the trial court, it opted to pass an order so as to do substantial justice.

35. It is obvious that the Supreme Court has exercised the powers under Article 142 of the Constitution of India. It permitted the Corporation to exercise right over the land earmarked for school, park as the restrictions imposed at the time of approving the layout had been in force for over three

Page 20 of 34



W.P.No.19472 of 2013

decades but held that the corporation has to get the property transferred in its favour after paying the market price, as prevailing on the date when the sanction of the layout plan was accorded.

36. This judgment is certainly not a proposition that if an area is reserved for a school and playground, the title automatically vests with the local body and it can proceed and take over the land. On the contrary, the judgment is a proposition for the principle that title to the land continues with the land owner. Hence, this judgment does not advance the proposition that Mr.T.P.Manoharan urged before the Court.

37. The next judgment that Mr.T.P.Manoharan cited is ***M.R.Gopalakrishnan v. The Special Officer, Tiruchy Corporation and Others, (1996) 1 LW 397***. The petitioner therein and four others had developed a layout and submitted the same for approval with Srirangam Municipality. It was sanctioned subject to certain conditions. One such condition was that the developer should maintain a playground, park and shopping area. Subsequently, the area was brought within the jurisdiction of Tiruchirapalli Corporation. The Corporation started demolition of certain superstructures constructed by the petitioner without notice. Hence, the petitioner approached this court.

38. The issue in that case was whether the extent of 6700 sq.ft. reserved for children playground, 2250 sq.ft. reserved for park and 1600

Page 21 of 34



W.P.No.19472 of 2013

sq.ft. reserved for shopping area vests with the corporation. Relying upon the judgment in **Pt. Chet Ram Vashist's** case, this court came to a conclusion that the ownership of the plot reserved for a playground continues with the land owner but is subject to the permanent restriction on the user of the land. The judgment is a proposition that an area reserved for playground cannot be altered or built upon. Even in such cases, the court held that the title vests only with the owner.

39. The present case does not pertain to a public park in the layout developed by Munusamy Mudaliar. That portion has admittedly been transferred to the Corporation. The title, insofar as the area earmarked for school and playground, does not vest to the Corporation as urged but continues to be only with the owner.

40. The next judgment that is referred to is the judgment in **Virender Gaur and Others v. State of Haryana and Others, (1998) 1 CTC 143**. That was a case of land kept open for environmental and recreational purposes. The challenge was to the formulation by the State of Haryana to convert the said land for construction of Dharamshala. The Supreme Court came to the conclusion that open spaces cannot be constructed upon and it is a public amenity meant for the residence of the locality to maintain ecology, sanitation, recreational, playground and ventilation purposes. Hence, this judgment, too, does not hold that the lands which are not public



W.P.No.19472 of 2013

places but reserved for other uses like school and playground also belong to the local body.

WEB COPY

41. To the same effect is the judgment in **Krishna Nagar Residents Welfare Association v. The Director of Town and Country Planning, Madras, (2001) 3 LW 828**. That was a case where the DTCP had granted permission to the original owner to convert a park into a community hall. Justice K.P.Sivasubramaniam held that once the area is reserved as a park, then it cannot be converted to any use. The reason is not too far to see. Open spaces are lung spaces for the residents and they cannot be used for construction. If so done, the area would become a concrete jungle.

42. To the same effect is the judgment in **Villupuram Municipality v. N.Subramanian and Others, (2002) 5 CTC 729**. That was a case where the area reserved for the purpose of construction of the school and playground was converted into plots and sold. The Municipality filed a suit for declaration that the property has to be maintained as it is and no construction should be put thereon. After referring to the judgment cited above, the learned Judge came to the conclusion that with respect to the extent of land earmarked for roads, it is obligatory on part of the owner to execute a gift deed in favour of the municipality or local authority and that the land owner cannot go-by to the conditions of sanction of the layout and convert the land to a different purpose. It was argued before the learned Judge that a condition imposed in the layout sanction is valid only for three



W.P.No.19472 of 2013

years and thereafter, the permission lapses and the same cannot be enforced.

WEB COPY

43. The learned Judge rejected this contention by holding that the period prescribed under Section 50 of the Town and Country Planning Act is only for the compliance of the conditions imposed under the sanction of the layout and for the owner to make the layout ready within the prescribed period. He rejected the argument that the owner can utilise the property in any manner he likes. He held that if a land is earmarked for a public purpose, the owner cannot convert the land into a private use. In the facts of that case, he gave a direction to the municipality to take necessary steps for construction. Hence, this judgment, too, does not hold that if the land is reserved for school and playground, the title automatically vests with the local body.

44. The next authority relied upon is the judgment in ***R.Varadarajan and Others v. Director of Town and Country Planning and Others AIR 2005 MAD 173***. It was a case where the District Register of the Cooperative society attempted to convert a playground into housing plot. This court held that the areas reserved for playground cannot be converted to any other purpose by the owner contrary to the layout plan. (See, paragraphs 24 and 26 of the said Judgment). It is nobody's case that the subject matter involved is a stand alone playground and a conversion was sought. This judgment is certainly not a proposition for the argument that once a layout

Page 24 of 34



W.P.No.19472 of 2013

is approved, the owner loses title over the land reserved for school and playground.

WEB COPY

45. To the same effect, is the judgment of the Division Bench of this Court in ***Sri Devi Nagar Residences Welfare Association v. Subbathal and Others, (2007) 3 LW 259***. The court held that public purpose cannot be defined and that, open spaces in a residential area cannot be converted for any other purpose.

46. The next judgment in ***Thai Nagar Welfare Association v. The Special Commissioner, Town Planning, Chennai, (2008) 6 CTC 689***, too, was a case where the area reserved for a public open space was sought to be converted into a godown. The court held that such conversion is impermissible. The court, however, held that in the layout, 17.14% had been reserved for open space, when the rules contemplated only 10% of the layout to be reserved for the said purpose. The court permitted the owner to apply for and construct over an excess of 7.14% for the purpose of construction of a Kalyanamandapam or any other building, to meet the needs of the public. In this judgment, too, the declaration of law is that open space to the extent of 10% of the layout plan has to be reserved as it is and any excess of plan over and above 10% can be utilised by the owner for any other purpose. The judgment tacitly recognised the title of the owner over the land in excess of the area reserved for open space.



W.P.No.19472 of 2013

47. The next judgment is **R. Chandran v. State of Tamil Nadu, (2010) 4 CTC 737**. That was a public interest litigation challenging the action of the Corporation of Chennai converting the playground and park into an underground parking area. Being an open space, a Division Bench consisting of M.Y.Eqbal, CJ and T.S.Sivagnanam, J. (as their Lordships then were) held that the land reserved for a playground cannot be converted into a use for any other purpose. Hence, the decision of the Corporation to convert the playground into an underground car parking stood rejected.

48. Mr.T.P.Manoharan placed strong reliance on the judgment of another Division Bench in **K.Rajamani and others v. Alamunagar Residents' Welfare Association, 2011 (1) CTC 257**. In that case, the Town Planning Authority had reserved a specific extent for a public purpose. Subsequently, the Municipal Administration Department passed an order permitting the user of the land from public purpose to a housing plot. This was challenged before the High Court. After a detailed survey of law, the court held that the Municipal Corporation cannot claim a right over the land as an owner, except when it resorts to the process of acquisition under the Land Acquisition Act. The Court confirmed that the Municipal Corporation will be the custodian of the open space as a park. Here too, as pointed out above, the court did not go to the extent of holding that if an area is reserved for a school and playground, the title is divested from the owner and vests with the local authority.



W.P.No.19472 of 2013

49. The next authority is the case of **G.Pandi v. The Commissioner, Hosur Municipality, Dharmapuri District and others in W.P.No.35970 of 2003 dated 16.07.2012**. In that case, a plot earmarked as 290-A, Avvai Nagar, Hosur had been designated as a park. Certain constructions had been made over the area. The learned Single Judge came to the conclusion that the land, once earmarked for public purpose cannot be altered to any purpose, or de-reserved, or put to use as a housing plot. He pointed out that the land meant for public amenities, street, road, park and other reserved areas under the housing scheme cannot be encroached upon. Here too, the law laid down is not that there is a transfer of title from the owner to the local body but that an area reserved for particular purpose should be put to use for that purpose and not for any other purpose.

50. Mr.T.P.Manoharan then relied upon the judgment in **S.R. Nagar Makkal Nala Sangam v. Tiruppur Co-operative Housing Society Ltd., in W.P.No.49314 of 2006 & W.P.No.7718 of 2008 dated 23.07.2012**. In that case, certain lands were reserved for School, Park, Play Ground, Auditorium, Hospital, Library and Children Play Ground and were sought to be converted for construction of a building for running private Arts College for Women, Ladies Hostel, RTO Office and the house sites for the relatives of the staffs of the Cooperative Housing Society. This Court reiterated the position of law that the land once earmarked for a public purpose cannot be de-reserved for any other purpose. K.Chandru, J. did not hold that the



W.P.No.19472 of 2013

Corporation becomes the owner of the property and thereby, is entitled to enter upon the land and start construction.

WEB COPY

51. The last of the judgments cited by Mr.T.P.Manoharan is ***Real Estate Agencies v. Government of Goa, 2012 (5) CTC 561 (SC)***. The petitioner therein had developed residential colony by name 'La Campala' residential colony. This colony was adjacent to Miramar lake. The Government passed an order that the land belonging to the petitioner would be utilised for jogging track, walkways, recreational centres etc., Hence, the petitioner moved the High Court of Bombay against the proposal. By the time the matter came to the Supreme Court, 40% of the work initiated by the Government had been completed. The Supreme Court held that the land, having been earmarked for an open space, should continue to be held as an open space and insofar as the area over which the Government had carried out development is concerned, the land owner would be entitled to raise the claim for loss and compensation. In fact, the judgment concludes that it is not dealing with the ownership or any other right of the petitioner, which he would have to prove in accordance with law.

52. Apart from these judgments, by a type set dated 22.08.2025, Mr.T.P.Manoharan circulated three other judgments.

53. The first judgment is ***R.Sulochana Devi v. D.M.Sujatha and Others, 2004 (5) CTC 108***. He relied upon paragraphs 24 and 25 of the Page 28 of 34



W.P.No.19472 of 2013

said order to plead that an order passed in violation of principles of natural justice is void. I have already held in the preceding portion of this judgment that the members of the petitioner association have a right to be heard before the authorities exercise the power under Section 54 of the Town and Country Planning Act. When the statute has given a right to the petitioners, I need not invoke the provisions of principles of natural justice to hold the order to be bad. As there has been statutory violation, on that score alone, the writ petition deserves to be ordered. Hence, this judgment is not germane to the interpretation of Section 54.

54. The second judgment is ***T.G.Naveen and Others v. The Chairman, Tamil Nadu Electricity Board, Anna Salai, Chennai and others in W.A.No.340 of 2019 and W.A.No.360 of 2019 dated 30.04.2021***. In the said judgment, he referred to paragraphs 20 and 23. The law laid down in those two paragraphs is that where an area reserved as a road, it should be used only for that purpose and cannot be converted to any other purpose or to be treated as a private property of the developer. That is not the situation in the present case.

55. The second proposition laid down in the judgment is that where the land is earmarked as road or a street, the purchaser becomes the joint owner for the piece of land so earmarked and that it cannot be converted into a private land or a private property. This judgment does not apply to the facts of the present case, since the roads and park have already been

Page 29 of 34

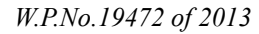


W.P.No.19472 of 2013

transferred in favour of the Kanchipuram Municipality. The private respondents are also not claiming any right over the same. They only stake a claim with respect to land earmarked for school and playground.

56. The last judgment referred to is ***Agrini Enclave Houses and Flat Owners' Association v. State of Tamil Nadu and Others in WP(MD).No.8630 of 2009 dated 20.10.2023***. Mr.T.P.Manoharan drew my attention to paragraphs 36, 41, and 43 of the said judgment to argue that the petitioners cannot claim a right over this land. A careful reading of the judgment shows that the learned Judge, interpreting Rule 9(3)(c) of the Development Control Regulations applicable to the certain local planning areas. He came to a conclusion that if the area is reserved for community and recreational purpose, then the local body is entitled to demand registration of a sale deed in its favour for these areas before granting approval of the layout.

57. I should point out here that the Development Control Regulations were not in force, or even contemplated when the layout was approved in favour of Munusamy Mudaliar. These regulations do not have retrospective operation. Once a registered sale deed is executed by the owner and the area is transferred to a local body, automatically, there is a transfer of title. No such document relating to school and playground had been executed in the present case.



60. The issue that I have been called upon to decide in this case is whether the authorities have the power to modify a layout plan. I conclude that Section 54 read with Section 2(15) of the Town and Country planning Act enable the Planning authorities to modify the plan. This power can be

Page 31 of 34



W.P.No.19472 of 2013

exercised as long as it does not result in infringement of open space reservation or areas reserved for public amenities.

WEB COPY

61. The claim of the private respondents is that though lands have been reserved for a school and playground, there are no takers, and hence, they want to convert it into a community hall. This issue would have to be reconsidered as the members of the petitioner society were not heard.

62. In the light of the above discussion, the writ petition is allowed. The impugned orders are quashed, the proceedings are restored to the file of the Deputy Director of the Town and Country Planning. The said authority shall issue notice to the office bearers of the association or any other person who has an interest in the layout as well as the private respondents. He shall hear them and pass orders afresh on the application filed by the private respondent seeking conversion of the user of the land from school and playground to that of the community hall. This exercise will be concluded within a period of three months from the date of receipt of a copy of this order. I am not inclined to impose costs on the respondents as they have proceeded on the basis of the legal opinion given by the Standing Counsel of the Municipality, which resulted in the erroneous order being passed.

03.02.2026

nl

Neutral Citation : Yes/No

Page 32 of 34



W.P.No.19472 of 2013

WEB COPY

To

- 1.The Secretary to Government,
Rural Development and Panchayat Raj
(C2) Department, Fort St. George, Chennai – 600 001.
- 2.The District Collector,
Kanchipuram District, Kanchipuram
- 3.The Director,
Town and Country Planning,
807, Anna Salai, Chennai – 600 002.
- 4.The Deputy Director,
Town and Country Planning,
Vedachala Nagar, Chengalpattu.
- 5.The Secretary,
Local Planning Authority, Town and Country Planning,
Vaikuntaperumal Koil Street, Kanchipuram,
- 6.The Chairman,
Kanchipuram Municipal Council, Kanchipuram.
- 7.The Municipal Commissioner,
Kanchipuram Municipal Council, Kanchipuram.



WEB COPY



W.P.No.19472 of 2013

V. LAKSHMINARAYANAN. J,

nl

W.P.No.19472 of 2013

03.02.2026