



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-04-2026

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THE HON'BLE MR JUSTICE KRISHNAN RAMASAMY

**W.P No. 9915 of 2020 and
WMP.No.12054 of 2020**

Tmt. Ponneswari
Wife of Jayaraman,
Aged about 59 years,
No13, Annai Indira Nagar,
Sivan Koil Street,
Keezhakasakudi,
Karaikal

..Petitioner

Vs

1. The Union of India
Represented by its Secretary to Government
Ministry of Road Transport and Highways,
New Delhi.
2. The Chief Secretary to Government
Government of Puducherry,
Puducherry.
3. The Deputy Collector (Revenue) Cum
Competent
Authority for Land Acquisition,
Karaikal.
4. The Tahsildar
Karaikal.

..Respondents

Writ Petition filed under Article 226 of Constitution of India seeking for issuance of Writ of Certiorari calling for the records on the file of the respondents relating to the orders (1) of the 3rd respondent dated 29.01.2020 bearing Ref.No.9117/DCR/NHAI/B1/DPM-31, 32,33,34/111 and (2) of the 4th



respondent dated 18.05.2020 being the Dstraint Order and quash the same as being contrary to law.

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For Petitioner:

Mr.T.Saikrishnan

For Respondents:

Ms.V.Usha

Additional Government Pleader

ORDER

This Writ Petition has been filed challenging the order of the 3rd respondent dated 29.01.2020 bearing Ref.No.9117/DCR/NHAI/B1/DPM-31, 31,33,34/111 and the Dstraint Order of the 4th respondent dated 18.05.2020 and to quash the same.

2. The facts in nutshell are as follows:

(i)The petitioner purchased the subject lands vide sale deed dated 29.03.2014. Since certain portions of the land purchased by the petitioner were inadvertently omitted to be included in the sale deed, another sale deed came to be executed by the vendors in favour of the petitioner. By the said Sale Deed, a total extent of 4326 Sq.Ft. of land comprised in T.S.No.18/4, T.S.No.18/6, T..No.18/5 and T.S.No.18/7 were conveyed to the petitioner. Pursuant to the same, the petitioner was put in possession of the respective extents of lands and enjoying the same.

(ii) While so, on 30.01.2017, the 1st respondent issued a notification under



Section 3A(1) of National Highways Act 1956 proposing to acquire lands including that of the petitioner. Pursuant to the same, the petitioner appeared before the 3rd respondent and submitted the sale deeds and also submitted a representation with respect to his entitlement to pay compensation and as such the petitioner's account was credited with a sum of Rs.26,41,528/- as compensation for acquiring the lands. The respondents have also taken possession of the acquired lands. While so, to the shock and surprise of the petitioner, the 3rd respondent issued a impugned order dated 29.01.2020 calling upon the petitioner to repay the compensation amount on the premise that it has been decided to refer the cases relating to road portion in unapproved lay-outs to the concerned Departments of the Government of Puducherry. Such order came to be issued even without any notice to him and without hearing him. Further action was taken for recovery of the compensation amount by the 4th respondent, who has issued a Dstraint Order dated 18.05.2020 under the Revenue Recovery Act authorizing the Village Administrative Officer of Keezhakasakudy village to attach and sell the petitioner's properties and calling upon the petitioner to pay the compensation amount with interest @ 12% per annum on or before 03.03.2020. Hence, this petition.

2.1. The learned counsel appearing for the petitioner would submit that the petitioner is entitled to the compensation for the entire extent of lands that were gifted to the local authorities. Further he would submit that since the



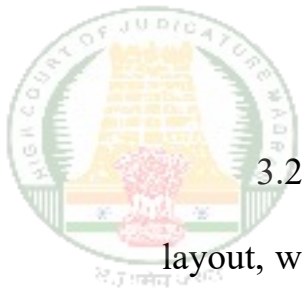
petitioner purchased the subject lands for valid consideration in a lawful and legal manner and the petitioner being the lawful owner of the subject lands, the compensation for the same cannot be deprived for certain extent by alleging that those extent of lands were shown as road portion. He further added that road portions cannot and would not vest on the Government or local bodies unless vested on them by registered instrument by the owners of the lands and it cannot be presumed or assumed that the owners lose their rights of ownership over such extents of lands and only after considering all these issues and determining by a legal process that the petitioner is entitled for compensation for the said extents of lands acquired that the compensation amount has been paid. Therefore, it is not open to the respondents to re-claim the said amount in an arbitrary manner. He therefore prays to quash the impugned orders. In support of his contention, he placed reliance on the Judgment of the Hon'ble Apex Court in the case of *Association of Vasanth Apartments Owners vs. V. Gopinath and others [2023 SCC Online SC 137]* (hereinafter referred as Vasanth Apartments' case)

3. The learned Additional Government Pleader (Pondy) appearing for the respondents 2 to 4 strongly opposed the submissions made by the learned counsel for the petitioner and would submit that vide G.O.Ms.No.04/2018-Hg., Puducherry, dated 26/06/2018 notified vide Extraordinary Gazette Mp/90-Part I



dated 28/06/2018, the Govt., of Puducherry introduced the individual plot regularization scheme by which the plot owners can individually apply and get approval for their plots by paying their share of Road development charges in respect of the unapproved layout. The subjective layout consists of totally 65 plots, out of which 12 plots have got approval so far from the Karaikal Planning Authority under the said scheme. Since a significant number of plots were already approved, the road portion which is made for common usage the promotor/land owner is not having ownership rights over the road portion which was dedicatedly shown as common passage in the layout.

3.1. Further, she would submit that though the petitioner is one of promoters/title holder of a part of road portion of the said layout, the road portion in any event belongs to Municipality for which the share of the Road development charges were already paid by the individual plot purchasers. She further added that the Revenue recovery has been initiated only against land covered under the road portion not against the petitioner's individual plot portion and in order to enable the Government to take a considered decision, the Competent Authority for Land Acquisition, Karaikal decided to recover the compensation already disbursed to the petitioner whose piece of lands fall in the road portions of the unapproved layout.



3.2. She further contended that the streets formed in an unapproved layout, whether gifted or not, vest with the local authority, since they are meant for public usage. In support of his contention, he relied upon the Judgment of the Division Bench of this Court in W.A.No.1749 of 2022 dated 25.09.2025 (*The Union of India represented by the Secretary to Government and others Vs.Mythili*)

4. In reply, the learned counsel for the petitioner would submit that Division Bench of this Court in the aforesaid Writ Appeal had no occasion to deal with Vasanth Apartments' Case, relied on by the learned counsel for the petitioner and the Judgment of the Division Bench of this Court relied on by the learned Additional would not be applicable to the case of the petitioner.

5. I have given due consideration to the submission made by the learned counsel appearing on either side and perused the materials available on record.

6. Admittedly, the petitioner herein gifted the subject lands to the local authorities, which includes the common pathway. The respondents states that the petitioner is not entitled for compensation for the common pathway, which was refuted by the petitioner stating that since she purchased the total extent of subject property for a valid consideration from her vendor, she is entitled for the compensation for the total extent of property gifted by her.



7. The case of the respondents is that the streets formed in an unapproved layout, whether gifted or not, vest with the local authority, since they are meant for public usage and therefore the petitioner is not entitled for the compensation. At this juncture, it would be apposite to extract the Judgment of the Division Bench of this Court in W.A.No.1749 of 2022 dated 25.09.2025 (*The Union of India represented by the Secretary to Government and others Vs.Mythili*), which reads as under:

“8. Sub-section (35) to Section 2 of the Act defines the private street. A private street refers to an exclusively formed pathway. However, in the present case, it is a layout formed, and the housing plots were sold to third parties and those housing plot owners received compensation in respect of acquisition of their own lands individually. That being so, the streets formed in an unapproved layout, whether gifted or not, vest with the local authority, since they are meant for public usage. Thus, the promotor, at later point of time cannot claim compensation for those public streets. In respect of the unapproved layouts, once the streets are formed and the housing plots are sold in favour of third parties, such streets does not vest with the promotor, but treated as public streets for the usage of general public. That being the principle, this Court is of the considered view that the respondent is not entitled to compensation in respect of the public streets, and consequently, the writ order impugned is set aside.”

8. As rightly contended by the learned counsel for the petitioner, the Division of this Court had no occasion to deal with Vasanth Apartments' Case.



This Court on 05.03.2026 in W.P.No.33431 of 2023 (*P.Vijaya Vs. The District Collector and anr*) had elaborately dealt with the entitlement of compensation to the plot owners with respect to the common areas, which were gifted to the local authorities and it would be relevant to extract paragraph 5 and 5.1. of the said order and the same is extracted hereunder:

“5. In regard to the first limb of the prayer, the petitioner has submitted that they are entitled to compensation in respect of 1,06,431 square feet of land, which was gifted to the local authorities for the formation of roads and a park, and that no compensation has been provided for the same. This Court, in numerous precedents, has consistently held that where property is gifted to local authorities for the purpose of developing a layout, the original owner of such property is entitled to compensation. In a gift deed is executed in favour of the local authorities in respect of a portion of the land, including roads, parks and Open Space Reservation (OSR) the local authority acts merely as a custodian of the said property and does not acquire absolute ownership over the same. In this context, as emphasized in **Association of Vasanth Apartments Owners vs. V.Gopinath & Others [2023 SCC Online SC 137]** (herein after referred as Vasanth Apartments’ Case), which was also observed by the Hon’ble **Division Bench** of this Court in W.P.Nos.33522 & 33530 of 2018 dated 13.03.2024. For better appreciation, paragraph No.4 reads as follows:-

“4.Precisely, the question raised in the present writ petitions is adjudicated by the Apex Court in the case of Association of Vasanth Apartments, supra. The questions posed before the Apex Court were - (I) Who would be entitled to the compensation if a gift is made in terms of the impugned Rule/Regulation?; and, (ii) What would happen if the OSR area is acquired in the exercise of the power of eminent domain for the public purpose?. The Apex Court held that the gift under Rule/Regulation is intended only to ensure due compliance with the requirement of the OSR area being effected and to prevent misuse by the owner. Upon acquisition by the Government, the owner would be entitled to the compensation.”



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which was extracted from **Vasanth Apartments'** case For better appreciation, paragraph No.156 reads as follows:-

In case there is no requirement to execute a gift of OSR area in terms of Pandit Chetram Vashishta (supra), the project proponent/owner would remain in the position of a trustee. As a trustee in law is the legal owner, and therefore this being the position in law, he may not be disabled from transferring the property in any manner. However, as he is under obligation as a trustee to maintain the property as OSR, he cannot defeat the obligation by transferring the same and it can lead to abuse. No doubt, he would be prohibited from raising any construction over the OSR area. One of the bundle of rights of an owner, however, which would survive after the owner steps into the shoes of a trustee, could be said to be the power to exclude 'others' from the OSR area. The attribute of ownership of property consisting of the power to exclude others may continue with the project proponent in the absence of a gift. Now, interestingly, this again would depend upon the interpretation of the words 'communal and recreational purpose'. This is for the reason that if the OSR area can be accessed by members of the general public as contended by the respondents, then, the project proponent cannot possibly have the right of an owner to exclude them. Equally, even with the requirement to maintain the OSR area in the absence of the demand for a gift, it could be said that the sole project of proponent could have the right to remain in possession. Another dimension may be noticed. What would happen if the OSR area is acquired in the exercise of the power of eminent domain for the public purpose? What would happen if the OSR area is acquired in the exercise of the power of eminent domain for the public purpose? Who would be entitled to the compensation, if a gift is made in terms of the impugned Rule/Regulation? We would think that since the interpretation we are placing is that the gift under the Rule/Regulation is intended only to ensure due compliance with the requirement of the OSR area being effected and to prevent misuse by the owner, as between the original owner and the local authority, it would be the original owner, who may be entitled to the compensation.

5.1. A reading of above paragraphs would make it clear that the Apex court observed that execution of a gift deed in favour of the local authority does not confer unfettered rights to alter the character of OSR land, which remains dedicated to the common benefit of the resident and the



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public. Therefore the benefit arising from such portion of land is intended to enure to the individual plot owners in the layout, since the consideration paid by purchasers implicitly includes the value of the roads, parks and OSR portion.

5.2. In the present case, not even a single plot has been sold to any third party, and the petitioner continues to hold the entirety of the land. In such view of the matter, the petitioner is entitled to compensation for the aforesaid extent of 1,06,431 square feet of land.

6. In view of the above, this Court directs the respondents to determine the compensation for the entire extent of land. However, in regard to the second limb of prayer, the respondents have already referred the same before the Principal District Court, Chengalpet.

9. In the aforesaid case, this Court by referring to Vasanth Apartments' Case, has clearly held that the owner of the property which was gifted to the local authority would be entitled to the compensation, even if it includes Open Space Reservation (OSR) area.

10. Admittedly in this case, the owner of the land is the plot owner. The grievance of the petitioner is that he is entitled for compensation as the proportionate share of the common area was also sold out to the petitioner and consideration was also paid.



11. By applying the aforesaid preposition, this Court is of the view that the petitioner is entitled for compensation to her proportionate share of plot to the entire extent of land gifted by her to the local authorities. The order passed by the 3rd respondent directing the petitioner to repay the compensation with respect to the proportionate share of the common passage and the consequent Dstraint order passed by the 4th respondent is liable to be set aside.

12. Accordingly, the same are set aside and this Writ Petition is allowed.

No costs. Consequently, connected Miscellaneous Petition is closed.

08-04-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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To

1. The Union of India
Represented by its Secretary to Government
Ministry of Road Transport and Highways,
New Delhi.
2. The Chief Secretary to Government
Government of Puducherry,
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3. The Deputy Collector (Revenue) Cum
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KRISHNAN RAMASAMY, J.

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