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WP No. 11095 of 2024
Review Petition No.58 of 2017
Contempt Petition No.964 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 27-02-2026

PRONOUNCED ON : 11-06-2026

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

**WP No. 11095 of 2024 and
Review Petition No.58 of 2017 and
Contempt Petition No.964 of 2024**

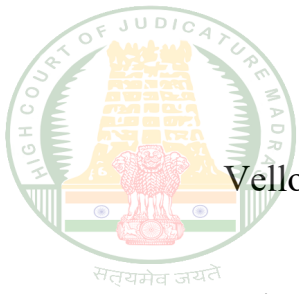
In W.P.No.11095 of 2024

Vallalar (Phase-3) Residents Welfare Association
Regd. No.490/1995, No.264/2, Nethaji Bose Main
Road, Phase- III, Sathuvachari,
Vellore- 632 009.
Rep By Its President G. Mohan.

..Petitioner

Vs

1. The District Collector
Vellore District, Vellore.
2. The Vellore City Municipal Corporation
Vellore, Vellore District. Rep By Its
Commissioner.
3. The Executive Engineer
Tamil Nadu Housing Board, Sathuvachari,
Vellore, Vellore District.
4. The Member Secretary,
Vellore Local Planning Authority / Joint
Director,
District Town And Country Planning Office,



Vellore.

WP No. 11095 of 2024
Review Petition No.58 of 2017
Contempt Petition No.964 of 2024



5. M/s.V.M. Constructions
No.45A/1, Rasi Arunachala Street Nadupet,
Gudiyattam, Vellore District.

..Respondents

To call for the records pertaining to the layout approval in Thitta Anumathi No. 23/2022 by proceedings of the 4th Respondent in Na.Ka. No.276/ 2020/ Ve. Vu. Thi. Ku dated 02.08.2022 and quash the same and consequently direct the respondents to maintain the subject site as open space after demolishing the construction if any made in R-5 S.No.330/1(part) of vallalar phase III Sathuvachari, Vellore.

For Petitioner : Mr.R.Sunilkumar

For Respondents : Mr.P.Kumaresan,
Additional Advocate General
Assisted by Mr.S.Ramachandran,
Standing Counsel For R3 (TNHB)

Mr.J.Ravindran,
Additional Advocate General,
Assisted by
Mr.P.S.Prabhu,
Standing Counsel for R2.

Mr.L.S.M.Hasan Fizal,
Additional Government Pleader
for R1 and R4

Mr.T.Saikrishnan for R5

Advocate Commissioner : Mr.S.Karthikeyan



In Review Petition No.58 of 2017

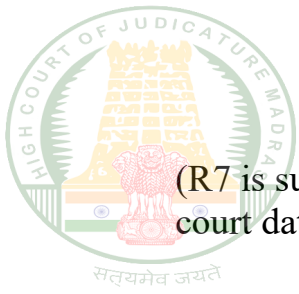
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Vallalar (Phase-3) Residents Welfare Association
Regd. No.490/1995, No.217/2, Double Road,
Phase- III, Sathuvachari, Vellore- 632 009,
Rep By Its General Secretrary, G. Mohan.

..Petitioner

Vs

1. The District Collector
The District Collector Office,
Sathuvachari, Vellore, Vellore District.
2. The Commissioner,
The Vellore City Municipal Corporation,
Vellore, Vellore District.
3. Assistant Commissioner,
Zone-2, Vellore Municipal Corporation,
Sathuvachari, Vellore, Vellore District.
4. The Executive Engineer,
Tamil Nadu Housing Board, Sathuvachari,
Vellore, Vellore District.
5. The Executive Engineer,
Tamil Nadu Pollution Control Board, Gandhi
Nagar, Vellore.
6. M/s. V.M. Constructions,
Rep. By its Managing Partner,
Mr. Murugan, Son of Annamalai.
7. The Assistant Director,
Directorate of Town and Country Planning,
Vellore



(R7 is suo moto impleaded as per order of this court dated 21.06.2017)

..Respondents

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Review Petition filed under section 114 and Order XLVII Rule 1 and 2 of Code of Civil Procedure against the final order dated 20.03.2017 passed by this Court in W.P.No.13191 of 2016.

For Petitioner : Mr.R.Sunilkumar

For Respondents : Mr.P.Kumaresan,
Additional Advocate General
Assisted by Mr.S.Ramachandran,
Standing Counsel For R4 (TNHB)

Mr.J.Ravindran,
Additional Advocate General,
Assisted by
Mr.P.S.Prabhu,
Standing Counsel for R2 & R3.

Mr.L.S.M.Hasan Fizal,
Additional Government Pleader
for R1 and R7

Mr.T.Saikrishnan for R6

R5 – No appearance

In Contempt Petition No.964 of 2024

Vallalar (Phase-3) Residents Welfare Association
Regd. No.490/1995, No.217/2, Double Road,
Phase- III, Sathuvachari, Vellore- 632 009,
Rep By Its General Secretary, G. Mohan.

..Petitioner

Vs

1.Mr.A.Ganesan,
The Executive Engineer,



Tamil Nadu Housing Board, Sathuvachari,
Vellore, Vellore District.

2.Mr.S.Sankaramurthy,
The Assistant Director,
Directorate of Town and Country Planning,
Vellore.

..Respondents

Petition filed under Section 11 of Contempt of Courts Act, 1971 to punish the respondents for willful disobedience of the order dated 21.07.2017 passed by this court in Review Petition No.58 of 2017.

For Petitioner : Mr.R.Sunilkumar

For Respondents : Mr.P.Kumaresan,
Additional Advocate General
Assisted by Mr.S.Ramachandran,
Standing Counsel For R1 (TNHB)

Mr.L.S.M.Hasan Fizal,
Additional Government Pleader
for R2

COMMON ORDER

(Order of the Court was made by V.Lakshminarayanan J.)

The Writ Petition, Contempt Petition and Review relate to areas reserved for open space, such as parks, children play spaces, etc., in the Vallalar (Phase-3) layout developed by the Tamil Nadu Housing Board. Hence, they have been clubbed together and were heard by this Court.

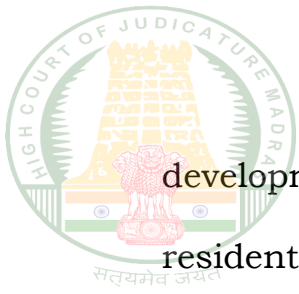


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2. Heard Mr.R.Sunilkumar for the petitioner, Mr.P.Kumaresan, learned Additional Advocate General assisted by Mr.S.Ramachandran, learned Standing Counsel for the Tamil Nadu Housing Board, Mr.L.S.M.Hasan Fizal, learned Additional Government Pleader for the District Town and Country Planning Office, Vellore and the District Collector, Mr.J.Ravindran, learned Additional Advocate General assisted by Mr.P.S.Prabhu, learned Standing Counsel for the Vellore City Municipal Corporation, Mr.T.Saikrishnan for the private respondent and Mr.S.Karthikeyan, Advocate Commissioner.

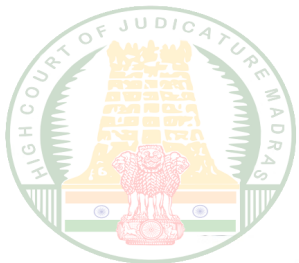
3. The petitioner is the Residents Welfare Association of an area termed as "Vallalar (Phase-3)". This area is situated within the limits of the Vellore City Municipal Corporation. The said area was developed by the Tamil Nadu Housing Board. The development took place sometime in 1978-79. It was a part of the Vellore Neighbourhood Scheme at Sathuvacheri. It abuts the crucial National Highway connecting Chennai with Bangalore.

4. The total land acquisition was for 98 acres. Keeping 98 acres as the overall land, representing 100% that was available for



development, 61.10% was reserved exclusively for housing plots and residential apartments. 765 housing plots of various dimensions and 50 apartments were constructed. 24.58% was reserved for internal roads and drainage. 1.78% was earmarked for public purposes. 0.93% was reserved to be exploited commercially. 0.65% for schools and 0.34% each to be used as community hall and for a forensic lab. Remaining 10.28% was earmarked for parks, children play spaces and open spaces.

5. The Writ petition is concerned with 10.28% that was earmarked for parks, children play spaces and open spaces. It is not in dispute that when the Housing Board obtained permission for development of layout, certain areas, as would be seen later, has been reserved for this purpose. It is also on record that the open areas, as per the reservation, had been handed over to the local body on 11.07.1990. The specific plot numbers with the corresponding area that had been handed over by the TNHB to the then local body, namely, the Town Panchayat of Sathuvachari is scanned and extracted hereunder:



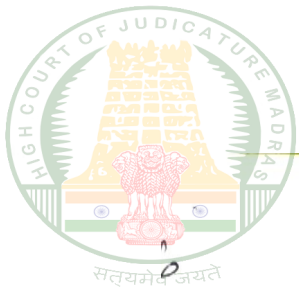
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STATEMENT S, ING THE DETAILS OF OPEN SPACES, PARK, C.P.S. &
L SITE PHASE.III. HANDED OVER TO TOWN PANCHAYAT, SATHUVACHAR
AS ORDERED IN BOARD'S MEMO.NO. TC2/ 42845/90, dt: 11.7.1990.

S/L.No.	Plot No.	Description	Extent in Sq.m.	Survey No.	Village	Remarks
1.	2.	3.	4.	5.	6.	7.
1.	R2 ✓	Open space	1805.00 ✓	323pt & 325pt	Sathuvachari.	
2.	R3 ✓	OTHER.	488.00 ✓	330pt	-do-	
3.	R4 ✓	C.P.S.	901.15 ✓	323pt & 324pt	-do-	
4.	R5 ✓	Park	4200.00 ✓	327pt.	-do-	
5.	R6 ✓	C.P.S.	1608.00 ✓	162pt	-do-	
6.	R7 ✓	Open space	1552.40 ✓	163pt	-do-	
7.	R8 ✓	Open space	1705.00 ✓	178pt	-do-	
8.	R12 ✓	Open space	8631.00 ✓	192pt & 193pt & 181 pt.	-do-	
9.	R13 ✓	Park	325.50 ✓	149pt	-do-	
10.	R14 ✓	Open space	616.00 ✓	149 pt	-do-	
11.	R15 ✓	Open space	1610.00 ✓	149pt, 151pt & 169 pt	-do-	
12.	R16 ✓	Open space	460.00 ✓	147pt & 148 pt.	-do-	
13.	R17 ✓	Open space	860.50 ✓	149 pt	-do-	
14.	R18 ✓	Open space	163.80 ✓	149 pt	-do-	

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	1.	2.	3.	4.	5.	6.	7.
22.19	R19	Open space	1017.60	146pt	Sathuvachari	-	-
22.20	R20	C.P.S.	1548.00	185pt	-do-	-	-
22.21	R21	Open space	754.20	135pt & 184 pt.	-do-	-	-
22.22	R22	Open space	1344.00	132pt	-do-	-	-
22.23	R23	Open space	210.00	132/pt	-do-	-	-
22.24	R24	Park	1382.00	134/pt	-do-	-	-
22.25	R25	Well site No. 2, Near Nursery School.	182.00	180pt	-do-	-	-
22.26	R26	Well site No.3 Near shops.	141.50	182pt	-do-	-	-
23.22	G17	Well site No. 4 (Pump room)	270.24	184pt & 185pt	-do-	-	-
24.23	R27	Public pur- pose in Sub-Division Office CHT.No.1	458.45	330pt	-do-	-	-
25.24	R28	Open space CHT.No. 2	759.60	142pt	-do-	-	-

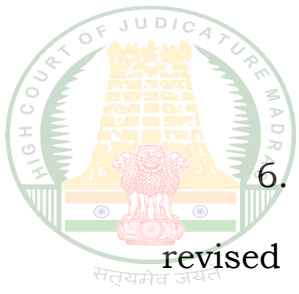
[Totally Twenty four items only]

HANDLED OVER BY

A. Sivalthanas
HEAD SURVEYOR
Vellore Municipal Corp
Vellore

TAKEN OVER BY

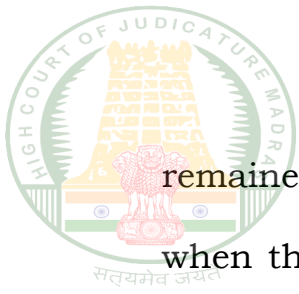
P. Senthil Kumar
28/7/2024
Executive Officer,
Selection Grade Town Panchayat, Sathuvachari



6. After the local body had taken over, the layout plan was again revised at the instance of the Housing Board and the areas were re-designated. Taking advantage of the revised layout, the lands were permitted to be used by the local body for several uses, which do not answer the original reservation.

7. Earlier, a children play space (hereinafter referred to as "CPS") was attempted to be converted as a garbage segregation cum compost shed. This was the subject matter of the Writ Petition in W.P.No.40595 of 2015. This Court intervened and allowed this writ petition on 01.03.2016. The Hon'ble Mr. Justice T.S.Sivagnanam (as his Lordship then was) came to a conclusion that the attempt of the Vellore Municipal Corporation, the local body which took over the lands from the Town Panchayat of Sathuvacheri, to convert the park into a dumping area, would result in disastrous consequences. He rejected the request of the Corporation to carve out the area with site reservation exclusively as CPS, for any other purposes. He directed that the said area should be utilised and preserved as a park.

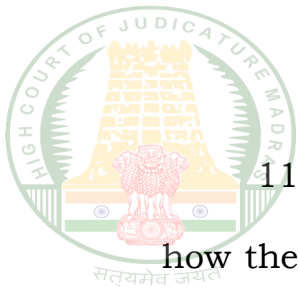
8. Despite the specific direction of this Court, till this writ petition came up for its final disposal, the second respondent did not rectify the situation. The CPS ordered by this Court to be restored and



remained as it was before the aforesaid orders. It was only thereafter when this Court called upon the Corporation to implement the order passed by this Court on 01.03.2016, did the authorities remove the structures laid therein, and the potentially dangerous items, which could affect a child while playing. The areas which were originally reserved for open space, parks and CPS were consistently encroached upon, not only by the Municipal Corporation of Vellore, but also by several other departments.

9. Taking into consideration the plea made by the learned counsel for the petitioner, this court, by an order dated 24.04.2024, appointed an Advocate Commissioner to visit the 18 sites along with a Surveyor and to note down its physical feature and to submit a report. The petitioner and the respondents were directed to co-operate with the Advocate Commissioner.

10. The Advocate Commissioner visited the sites on 27.05.2024. With the assistance of the Executive Engineer, Tamil Nadu Housing Board, Vellore Unit; the City Planner, Vellore City Municipal Corporation and representatives of the petitioner, he conducted a detailed survey.

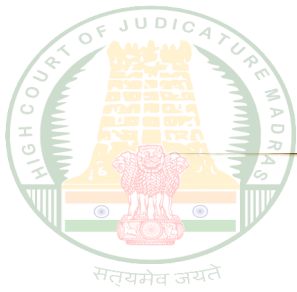


11. The Housing Board itself has submitted a report showing how the areas, which had been reserved and handed over to the local body in 1990, have been encroached upon. The report submitted by the Housing Board is extracted hereunder:

TAMIL NADU HOUSING BOARD :: VELLORE HOUSING UNIT
Vellore Neighborhood Scheme Phase-III Local Body Handed over details

I Handed over to Local Body 25.07.1990

Sl. No.	Plot no as per L.P/DTCP 1216/95	Revised Plot No as per L.P/DTCP 29/2022	Handed over to Local Body as	Extent in Sqm.	Present Stage as on date
1	R2	R2	Open space	1805.00	Zone-II Community Hall, VAO Office and Park
2	R3	R4	C P S	901.15	Sump & Pumproom
3	R4	R5	Park	4200.00	TNS RC - Mandapam
4	R6	R6	C P S	1608.00	OHT Temporary Shed
5	R7	R7	Open space	1552.40	Ration shop & Park panchayat Office
6	R8	R8	Open space	1705.00	Valampuri Vinayagar Temple
7	R12	R12	Open space	8631.00	Temple, Park, EB Office
8	R26	R13	Park	325.50	Anganvadi maiyam
9	R25	R14	Open space	616.00	Matharasa (Mosque)
10	R23	R15	Open space	1610.00	Kanriyamman, Iyappan Temple, Ration shop, Amma navagam
11	R31	R16	Open space	460.00	Ling:swari Amman Temple
12	R27	R17	Open space	860.50	TWAD pumping station (200-l)
13	R22	R18	Open space	163.80	Primary Health centre
14	R28	R19	Open space	1013.00	Park
15	R16	R20	CPS	1548.00	Mangala Valampuri Vinayagar temple
16	R21	R21	Open space	754.20	Sellihamman Temple encroachment
17	R18	R22	Open space	1244.00	Encroachment as Road
18	R19	R23	Open space	210.00	Encroachment as Muneerswaran Temple
19	R20	R24	Park	1288.00	Pumping station
20	R13	R25	Well Site	182.00	Well, Pumproom
21	R14	R26 (Pt)	Well site	141.50	(PF Office)
22	R13	617	Well site	270.84	Well, Pumproom
23	R5	R27	PP OHT	458.45	Corporation Zonal Office Stopped construction
24	R3	R28	Open space OHT	759.60	OHT
			Total	32308.04	



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II. Handed over to Local Body on 17.06.2004

Sl. No.	Plot no as per L.P/DTCP 1216/95	Revised Plot No as per L.P/DTCP 29/2022	Handed over to Local Body as	Extent in Sqm.	Present Stage as on date
1	R10	R30	Park & Open space	2047.90	Park, sump, well
2	R9	R32	Children play Space	580.74	Park near TNGRHS
3	R35	R35	Open	131.52	Clean India Scheme
4	R36	R36	Lawn	63.30	Road
Total				2823.46	

III. Handed over to Local Body on 21.09.2022

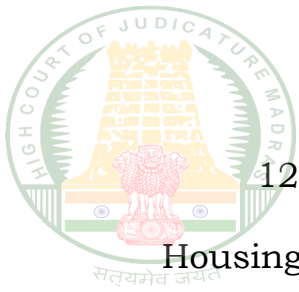
Sl. No.	Plot no as per L.P/DTCP 1216/95	Revised Plot No as per L.P/DTCP 29/2022	Handed over to Local Body as	Extent in Sqm.	Present Stage as on date
1	R26	R26	Open	2022.20	Park
2	R29	R29	Park	2030.00	Poonga Nagar Park
3	R1	R31	Park	294.05	Mount view apartment park
4	R11	R33	Open	241.40	Vacant & Encroachment
5	R24	R34	Play Ground	1181.46	Tirupati Vinayagar Temple & Vacant
Total				5769.11	

Revised Layout

Total Extent = 93.16 Acres.

Total Open Space : 32308.04+2823.46+5769.11 = 40900.61 M2 (or) 10.11 Acres.

$$\frac{10.11 \times 100}{98.16} = 10.30\%$$



12. The original layout developer, namely, the Tamil Nadu Housing Board had handed over the plots to the local body for the purpose of its maintenance. Instead of maintaining the same as an open space, the fence has eaten the crops which it was supposed to protect. I have to refer to a few judgments of the Supreme Court in order to show the settled position of law that had been laid by that Court with respect to open spaces, CPS and parks.

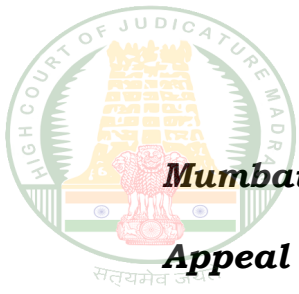
13. The first of the judgments is ***Bangalore Medical Trust v. B.S. Muddappa, (1991) 4 SCC 54***. The Supreme Court declared the action of the Bangalore Development Authority in converting an open space reserved for public park into a hospital as illegal. It was sought to be argued that the hospital is also a civic amenity and is meant for the benefit of the public. The Court declared that the area reserved for parks is a necessity and not a mere amenity. It held that such areas are essential for environmental protection and also for health of the residents.

14. The lands, which are designated as open spaces, are to be protected and cannot be left open to those who are managing it, like the Vellore City Municipal Corporation or the Housing Board itself, for diversification and commercial exploitation. The power of removal of



encroachments from areas under the management or those vested with the local bodies have been conferred under several legislations like Tamil Nadu Panchayat Act, Tamil Nadu Urban Local Bodies Act and the erstwhile Tamil Nadu District Municipalities Act. The purpose of conferring such powers are for maintaining the designated spaces in public interest. Once a land is reserved as an open space, park or children play space in a sanctioned layout or even in a town planning scheme, they cannot be re-purposed at the whims and fancies of those developing the layout. If the original developer himself cannot re-purpose or alter the designated use, the local body to whom the land is handed over owes a duty not only to the body that handed over the land to it for maintenance, but also to the resident who purchased plots in the layout for the purpose of residing therein. The jurisprudential foundation for this principle is that such spaces provide lung space, which is essential for the residents, and no development, either by a public or private developer, can substitute the same.

15. The necessity for preserving open spaces in urban planning is no longer a prerogative of the aristocracy and the affluent as declared by the Supreme Court in ***Municipal Corporation of Greater***



Mumbai v. Hiraram Sitaram Deorukhar and Others in Civil

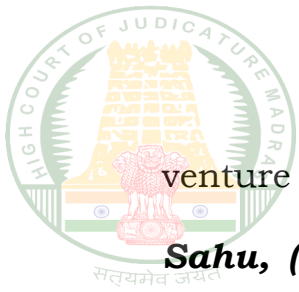
Appeal No.11258 of 2017 dated 24.08.2017.

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16. In ***Virender Gaur and others v. State of Haryana and others, (1995) 2 SCC 577***, the Supreme Court ruled that the Government has no power to sanction lease of a land vested in municipalities for the purpose other than those for which it was originally earmarked. It reiterated the position that the right to healthy environment is a part of right to life under Article 21 of the Constitution of India.

17. A perusal of the report filed by the Advocate Commissioner and the Housing Board extracted above shows that the Vellore City Municipal Corporation, by converting an open space into areas for public ventures like Kalyana Mandapam, Angan Vaadi Maiyam, Pumping Station and Corporation Zonal Office, has been interested in augmenting its revenue than in preserving the land for the purpose for which it was originally earmarked. It has failed in its duty as a caretaker of these areas.

18. The Supreme Court had prohibited such kind of surrender of the primary duty of the Municipal Corporation by converting it into a



venture for earning profit in ***M.I.Builders (P) Ltd v. Radhey Shyam***

Sahu, (1999) 6 SCC 464. In that case, the local body, which had been entrusted with a duty to maintain a park, in utter violation of its duty, constructed an underground shopping complex. The Supreme Court ordered restoration of the park that had been partially destroyed by such a construction.

19. In ***Association of Vasanth Apartment Owners v. V.Gopinath and Others, 2023 INSC 123***, the Supreme Court, while interpreting the laws applicable to the State of Tamil Nadu, held that a developer cannot claim any right over an area reserved for any purpose. It pointed out that for larger layouts, public access is implicit. It further declared that the land reserved as an open space, whether gifted earlier or after the judgment, should be used only for communal or recreational purposes. It reiterated the position that the civic bodies, to whom these lands are gifted, are trustees and in case, they are not in a position to maintain it themselves, they can authorise a resident welfare association of the area for maintenance. In paragraph 184(vi), the Supreme Court declared as follows:

“184(vi). The areas covered by the OSR cannot be diverted for any other purpose. The respondents are duty-bound to ensure that the area set apart as OSR is stringently utilised only for the purpose in the



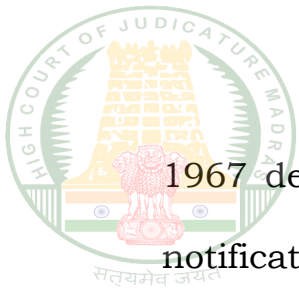
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Rule/Regulation. We direct that no area meant for OSR shall be utilised as dumping yards or any other purpose other than as OSR.

20. Earlier in **Anjuman E Shiate Ali and Another v. Gulmohar Area Societies Welfare Group and Others, (2020) 20 SCC 698**, the Supreme Court ruled that designated open spaces in approved layouts cannot be converted for residential use. The Supreme Court upheld the judgment of the High Court affirming that the subsequent development plan do not override the specific amenity reservation made in the earlier layout plan. The case arose out of the attempt made by a layout developer to utilise two plots reserved as open spaces as per the 1967 development layout. On the basis of the subsequent 1999 development plan issued by the Maharashtra Housing and Area Development Authority under the 1967 and 1991 Development Control Regulations, a certain percentage of any residential or commercial layout had to be reserved for recreational or open spaces.

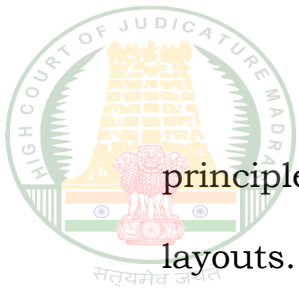
21. Two plots, namely, Plot No.6/11 and Plot No.3/14, within the Juhu Vile Parle Development Scheme for Bombay, had been reserved as open space/garden, pursuant to Regulation 39 of the Development Control Rules, 1967. Over the time, the plots developed under the



1967 development layout were allotted and built upon. By way of a notification, the Maharashtra Housing and Area Development Authority issued the 1999 development plan. This development plan shows the aforesaid two plots as “residential”.

22. Taking advantage of this notification, the appellant trust sought to construct on these two areas. The matter reached the Bombay High Court. The High Court held that 1967 reservation for open space remains binding and quashed the subsequent notification that authorised the construction and leasing out the plots. It is against the said order, the matter reached the Supreme Court. The Supreme Court, while dismissing the appeal, held that the open space in an approved layout serves as a permanent “lung spaces” for the neighbouring plots, and cannot be converted into the building plots merely because the overall zoning regulations remain residential.

23. This Court refers to this position in order to point out that the integrity of an open space reservation in a sanctioned layout, despite the later statutory changes in the zoning regulations, cannot be unilaterally desecrated. Such reservations are made to secure enduring public benefits. This judgment and the subsequent view of the Supreme Court in **Gopinath**’s case (cited supra) reinforce the said



principle of law, regarding the permanency of open spaces in approved layouts.

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24. Having held out to the residents of Vallalar (Phase-3) that the areas earmarked as open spaces will be maintained as open spaces and having sold the property to them as such, neither the Housing Board nor the local body can be permitted to encroach upon the same. When the Supreme Court has so clearly spoken on the law, all that I have to do is to apply the principles laid down by that Court to the facts of the present case.

25. The conclusion being that in urban development, open spaces like parks, playgrounds and recreation areas are vital for health, ecology and social well being. Open spaces, once reserved, cannot be used for any other purpose. It is the duty of this Constitutional Court to ensure that an area so reserved for a specific purpose continues to be used only for that purpose and any diversion from what it was originally earmarked for, requires to be interfered with by this Court.



Discussion on Review Petition

26. Earlier a writ petition came to be filed seeking a writ of mandamus directing the respondents not to cut large trees and put up a construction of Zonal Office in the area reserved for public purpose (Plot R27) in the Vallallar (Phase-III). The Writ Petition came up for disposal on 20.03.2017. At that time, it was submitted by the respondents that as per DTCP plan 553/1991, the site in R35 was only a public area and not earmarked as park. Recording the same, this Court disposed of the Writ Petition. Subsequently, the petitioner has produced a revised layout plan approved by the Director of Town and Country Planning in DTCP 1216/1995 dated 30.08.1995, whereby the said area had been reserved for a park.

27. The fourth respondent to that writ petition, despite being aware of the same, did not bring the said fact to the notice of the Court. It was the said respondent, who as the developer of the layout, had sought for the said conversion. After coming to know about the said reservation, which had been kept away from the notice of the Court, the petitioner had moved this review.

28. It is a settled position of law that where vital documents are kept away from the court, it can form a ground for review. The party in



possession of the relevant documents has a duty to produce the same, regardless of who bears the burden of proof. This is a settled position

even in civil litigations. It has been so right from the time the Privy Council held so in ***T.S.Murugesam Pillai v. Manikavasaka Desika Gnana Sambandha Pandara Sannadhi and Others, AIR 1917 PC***

6. Justice Lord Shaw of Dunfermline condemned the practice of those in possession of documents to withhold them and wait for the other side to discharge the burden of proof. He pointed out that in litigations, it is the duty of the parties to produce all relevant materials in their possession in order to assist the court in discovering the truth. He emphasised that litigation is not a game of strategy where a party can sit on evidence simply because, by law, the burden of proof lies on the appellant.

29. In this case, the Housing Board had all the relevant documents in its possession. Despite the same, it had kept the documents away from the scrutiny of the learned Single Judge on the earlier occasion. The fact that the area, originally reserved for public purpose had been changed to a park at least 20 years before the writ petition came to be filed before this Court, is not in dispute. To make it clear, the area had been reserved as a park in 1995; and when the Writ Petition came up before this Court in 2017, it was argued by the



respondents that the area is not earmarked as a playground or a park.

This is clear from the perusal of paragraph 8 of the order passed by the learned Single Judge.

30. When this crucial fact has been brought to the notice of this Court, it is the duty of this Court to ensure that its record remains free from any misrepresentation. As the order had been secured by misrepresenting that the area had been reserved for public purpose, when it had, in fact, been reserved as a park, *ex debito jussitiae* the order requires to be reviewed.

31. Whatever might be the interest of the private party, the State respondent, namely, the Housing Board, owed a bounden duty to this Court to point out that there had been a change in reservation. Once this Court concludes that as per the revised layout in DTCP No.1216 of 1995, the area has been reserved as a park, the petitioner would be entitled for an order restraining the respondents from converting the area under R27 to any other purpose.

32. I should point out here that the learned Single Judge, who had dismissed the writ petition, had himself entertained the review when the said fact was brought to his notice and had also granted an



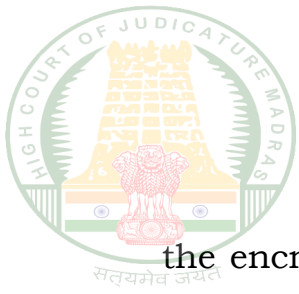
order of *status quo*. He had pointed out even at the time of entertaining the review that, if any construction work is proceeded, it will be subject to the result of the review. Alleging violation of the order of *status quo*, Contempt Petition No.964 of 2024 has been filed, which is also a matter for consideration in this case.

Discussion on Contempt Petition

33. Insofar as the contempt petition is concerned, as the lands have been handed over by the Housing Board to the Vellore City Municipal Corporation and as the Housing Board was not in possession thereof, on the day the order of *status quo* was granted, the first respondent cannot proceed against.

34. The upshot of the discussion is that the Writ and the Review Application stand allowed. The Contempt Petition stands closed. The Writ and Review are allowed in the following terms:

- (a) The impugned proceedings permitting conversion are quashed.
- (b) A mandamus is issued to the respondents to maintain the sites reserved as an open space.



(c) The respondents shall take immediate steps to remove the encroachment made over the open spaces, after following the due process of law.

(d) Any construction that has been made in the subject area shall be dismantled and the area shall be restored to the position as it stood when the Housing Board had handed over it for maintenance to the then local body in existence, namely, the Town Panchayat of Sathuvachari.

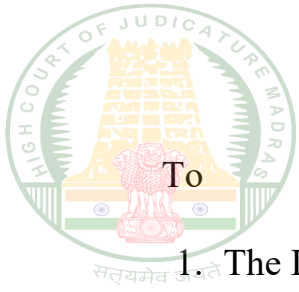
(e) The Vellore City Municipal Corporation shall ensure compliance of this order and shall ensure that any construction made over the areas earmarked reserved as a park is removed and the areas be restored as an open space/park as it stood reserved in 1995.

No costs. Consequently, the connected miscellaneous petitions are closed.

11-06-2026

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



To
1. The District Collector, Vellore District, Vellore.

2. The Commissioner,
Vellore City Municipal Corporation,
Vellore, Vellore District.

3. The Executive Engineer,
Tamil Nadu Housing Board, Sathuvachari,
Vellore, Vellore District.

4. The Member Secretary,
Vellore Local Planning Authority / Joint
Director District Town And Country Planning
Office, Vellore.

5. The Assistant Commissioner,
Zone-2, Vellore City Municipal Corporation,
Sathuvachari, Vellore, Vellore District.

6. The Executive Engineer,
Tamil Nadu Pollution Control Board,
Gandhi Nagar, Vellore.

7. The Assistant Director,
Directorate of Town and Country Planning,
Vellore.



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WP No. 11095 of 2024
Review Petition No.58 of 2017
Contempt Petition No.964 of 2024
V.LAKSHMINARAYANAN J.

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**WP No. 11095 of 2024 and
Review Petition No.58 of 2017 and
Contempt Petition No.964 of 2024**

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