



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-03-2026

CORAM

THE HON'BLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 33431 of 2023

P.Vijaya

..Petitioner(s)

Vs

1. The District Collector,
Kancheepuram 631 501.
2. The Special Tahsildar,
Office of Special Tahsildar,
Nemilli Scheme, SIPCOT,
Sriperumbudur Taluk.

..Respondent(s)

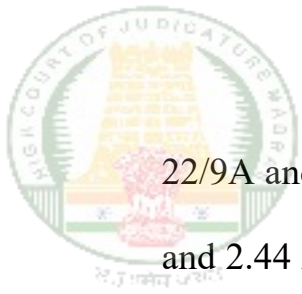
Prayer: This writ petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents to fix the compensation for the entire Extent of land in Survey No. 5/2, 5/3, 5/5, 8/3, 15/4, 21/1, 21/5, 22/9A and 22/9B (measuring a total extent of 11.42 Acres (8.98 Acres for plots) and 2.44 Acres (88,431 Sqft + 18,000 Sq ft) for road & Park) situated at Nemili Village, Sriperumbudur, Kanchipuram District and to properly file the reference before the Hon'ble District Court, Kancheepuram.

For Petitioner(s) : Mr.C.Prasanna Venkatesh

For Respondent(s) : Mr.T.K.Saravanan, AGP

ORDER

This writ petition is filed to direct the respondents to fix the compensation for the entire Extent of land in Survey No. 5/2, 5/3, 5/5, 8/3, 15/4, 21/1, 21/5,



22/9A and 22/9B (measuring a total extent of 11.42 Acres (8.98 Acres for plots) and 2.44 Acres (88,431 Sqft + 18,000 Sq ft) for road & Park) situated at Nemili Village, Sriperumbudur, Kanchipuram District and to properly file the reference before the Hon'ble District Court, Kancheepuram.

2. Learned counsel for the petitioner would submit that there are two issues in this writ petition. One issue is with regard to fixation of compensation for more than 1 lakh sq.ft., of land. The petitioner is a promotor and formed a layout consisting of 104 plots and earmarked the lands for laying roads and park in the said layout, which was later handed over to the local authorities. Under these circumstances i.e., after the formation of layout, the respondents have initiated the land acquisition proceedings. However, without paying compensation to the entire extent of land, the respondents awarded the compensation exempting the lands reserved for formation of roads and park. As far as the second issue is concerned, he would submit that no reference has been made for re-determination of the award. Hence, this writ petition.

3. Learned Additional Government Pleader appearing for the respondents would submit that the petitioner has registered a gift deed to the local authorities in regard to the lands earmarked for roads and park. Therefore, awarding compensation to the said lands is not applicable. He would further submit that, already reference has been made with regard to the enhancement/re-



determination of award vide letter No.127/2021 dated 29.09.2021 before the Principal District Court, Chengalpet. Accordingly, he prays for appropriate orders.

4. Heard the learned counsel on either side and perused the materials available on record.

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.”

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 happened 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 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.

With the aforesaid observation and direction, this writ petition stands disposed of. No costs.

05-03-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

VM



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To:

1. The District Collector,
Kancheepuram 631 501.
2. The Special Tahsildar,
Office Of Special Tahsildar,
Nemilli Scheme, Sipcot,
Sriperumbudur Taluk.



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KRISHNAN RAMASAMY, J.

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