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Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2026

CORAM :

THE HONOURABLE MR. SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

WA No. 3282 of 2026
CNR:{HCMA012198602026}

N.Mohammed Maroof
S/o.Late Fazlur Rahman N,
No.14/55, 1st Street,
Pernambut Town,
Vellore District-635 810.

Appellant

Vs

The Commissioner
Pernambut Municipality,
Pernambut
Vellore District-635 810.

Respondent

PRAYER: Appeal filed under Clause 15 of the Letters Patent to set aside the order passed by the learned Single Judge in W.P.No.23254 of 2026, dated 24.6.2026.

For Appellant: Mr.J.Prakasam

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JUDGMENT
(Delivered by *G.Arul Murugan,J.*)

This intra-Court appeal assails the order dated 24.6.2026 passed in W.P.No.23254 of 2026, whereby the challenge made to the order dated 8.4.2026 came to be rejected.

2. The appellant has submitted an application to voluntarily gift an extent of 0.05 acres, i.e. 23 feet wide pathway, to the respondent/ Municipality for public use, after entering into an agreement dated 10.9.2022 with the other co-owners. The appellant wanted to gift the said land to the local body to resolve future differences, if any, that may arise with the other land owners and to ensure that all the land owners could have access to the pathway that is intended to be provided.

3. The application submitted by the appellant was considered by the respondent and, by the order dated 8.4.2026, the same was rejected by holding that any land forming part of road pattern/ unauthorized layout cannot be developed or transferred without the DTCP approval and, therefore, the voluntary gift sought to be given by the appellant cannot be considered.

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4. Assailing the said order, the appellant knocked the doors of the writ court and the learned Single Judge, by order dated 24.06.2026, dismissed the writ petition upholding the view taken by the respondent/Municipality that development cannot be made without the approval of the DTCP. The appellant was, however, granted liberty to approach the DTCP for layout approval.

5.1. Learned counsel appearing for the appellant contended that no development is sought to be made over the land in question and the appellant along with other land owners wanted to voluntarily gift a portion of the land for future use as pathway and, therefore, the respondent was not right in rejecting the request of the appellant.

5.2. He further contended that, in similar circumstances, for some other area, already NOC was granted and, therefore, the respondent is not right in arbitrarily discriminating the appellant alone and rejecting the request.

5.3. Learned counsel for the appellant placed reliance on Rule 47 of the Tamil Nadu Combined Development and Building Rules, 2019

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and contended that when the Rules provide for gifting of the road, the order passed by the respondent runs athwart the statutory provision and the said fact was not considered by the learned Single Judge and, therefore, the impugned order warrants interference.

6. Heard the submissions of learned counsel for the appellant and perused the materials available on record. At the outset, it needs to be noted that many of the grounds raised in this appeal were not urged before the learned Single Judge.

7. From a perusal of records, we find that the appellant along with certain other land owners joined together and entered into an agreement dated 10.9.2022, whereby all the co-owners have decided to voluntarily dedicate an extent of 0.05 acres, i.e. by providing 23 feet wide pathway for public use. From the very nature of the transaction entered into between the appellant and the other land owners, it is clear that all the land owners wanted to join together and form a common pathway, whereby they could enjoy each of the properties without any hindrance. In other words, the very nature of the transaction shows that the land owners joined together and intended to develop the lands to form a layout.

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8. Section 47 of the Tamil Nadu Town and Country Planning Act, 1971 contemplates that no person other than any State Government or Central Government or any local authority shall use or cause to be used any land or carry out any development in that area otherwise than in conformity with such development plan. Section 47 of the Act reads as follows:

> *"47. Use and development of land to be in conformity with development plan.*
> *- After the coming into operation of any development plan in any area, no person other than any State Government or the Central Government, or any local authority shall use or cause to be used, any land or carry out any development in that area otherwise than in conformity with such development plan:*
>
> *Provided that the continuance of the use of any land for the purpose and to the extent for, and to which it is being used on the date on which such development plan comes into operation, may be allowed for such period and upon such terms and conditions as may be specified in such development plan."*

9. The manner of obtaining permission is set out in Rule 6 of the Tamil Nadu Combined Development and Building Rules, 2019 (in short

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"2019 Rules"). Any person intending to obtain planning permission or building permission for development of the land or a building has to submit an application under Rule 6 along with fees prescribed under Rule 7, which would be processed under 2019 Rules. Rule 47 of the 2019 Rules relied on by the appellant only sets out the minimum requirements of road width, when the application filed under Rule 6 is considered by the authorities.

10. When the appellant wanted to join together with the other land owners and make a development in the land, whereby they wanted to form a pathway/road giving public access to all the property owners and intended to gift the same to the local body, the same could be done only after obtaining appropriate approval from the competent authorities either under Section 47 of the Tamil Nadu Town and Country Planning Act or under Rule 6 of 2019 Rules. The appellant wanted to camouflage the transaction in question as a simple agreement between the land owners, which, in our considered opinion, is nothing but a development where they want to form a layout for better use. When the Act and the Rules specifically contemplate that no such development can be made without prior approval, the attempt made by the appellant to just make a voluntary gift of 23 feet wide

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pathway to the respondent is only an attempt to circumvent the provisions of the Act and the Rules.

11. For the aforegiven reasons, we are of the view that the learned Single Judge, by taking note of the provisions, has rightly dismissed the writ petition relegating the appellant to obtain proper approval from DTCP and thereafter approach the local authorities for gifting of the land in question.

Accordingly, the writ appeal is dismissed. There shall be no order as to costs.

(SUSHRUT ARVIND DHARMADHIKARI, CJ) (G.ARUL MURUGAN,J)

28.10.2026

Index : Yes/No
Neutral Citation : Yes/No
bbr

To:

The Commissioner
Pernambut Municipality,
Pernambut
Vellore District-635 810.

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Order QR

THE HON'BLE CHIEF JUSTICE
AND
G.ARUL MURUGAN,J.

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W.A.No.3282 of 2026

28.10.2026

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