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W.P. Nos.10369-27479/2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
25.06.2026	31.07.2026

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NOS.10369 & 27479 OF 2017

AND

W.M.P. NOS. 11283 & 29366 OF 2017

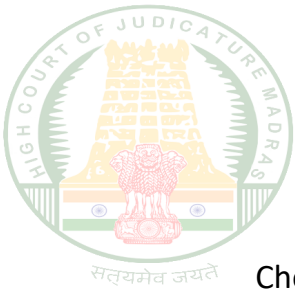
W.P. NO. 10369 OF 2017

Injambakkam VGP Layout Owners
Asociation, Plot No.48, 2nd Cross Road
VGP Layout, Injambakkam
Chennai 600 041, rep. By its Member
Mr. A.Franklin Rajesh

.. Petitioner

- Vs -

1. The Commissioner
Greater Corporation of Chennai
Ripon Building, Chennai 600 003.
2. District Revenue Officer
Land & Estate Department
Corporation of Chennai
Ripon Building, Chennai 600 003.
3. The Zonal Officer
Zone No.15, Corporation of Chennai
Sholinganallur, Chennai 600 119.
4. The Member Secretary



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Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road, Egmore
Chennai 600 008.

5. Directorate of Town & Country Planning
807, Anna Salai, Chennai 600 002.
6. The Tahsildar
Sholinganallur Taluk Office
No.3, 1st Street, Kumaran Nagar
Rajiv Gandhi Salai
Sholinganallur, Chennai 600 119.
7. VGP Housing Pvt. Ltd.
No.6, VGP Square
Dharmaraja Koil Street
Saidapet, Chennai 600 015.
8. The Town Panchayat Office
Ezhil Nagar, Sholinganallur
Chennai 600 119.

.. Respondents

W.P. NO. 27479 OF 2017

Injambakkam VGP Layout Owners
Association, Plot No.48, 2nd Cross Road
VGP Layout, Injambakkam
Chennai 600 041, rep. By its Member
Mr. A.Franklin Rajesh

.. Petitioner

- Vs -

1. The Commissioner
Greater Corporation of Chennai
Ripon Building, Chennai 600 003.
2. The Regional Deputy Commissioner (South)
Corporation of Chennai



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No.115, Dr.Muthulakshmi Salai
Adyar, Chennai 600 020.

3. District Revenue Officer
Land & Estate Department
Corporation of Chennai
Ripon Building, Chennai 600 003.
 4. The Zonal Officer
Zone No.15, Greater Chennai Corporation
Sholinganallur, Chennai 600 119.
 5. The Member Secretary
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road, Egmore
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 9. The Town Panchayat Office
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Chennai 600 119.
- .. Respondents



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W.P. No.10369 of 2017 filed under Article 226 of the Constitution of India

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praying this Court to issue a writ of mandamus directing respondents 1 to 6 and 8 to take appropriate action against the layout promoter and prohibit and/or prevent the layout promoter from putting up any form of construction and/or altering/remodelling the existing construction in any manner whatsoever including for a restaurant/showroom/commercial purpose or for any other purpose in the Community Hall and in the land appurtenant thereto so as to ensure that the layout promoter does not have any control over the said Community Hall or the land appurtenant thereto and also prevent the layout promoter from using in any manner and/or letting out on hire or otherwise use the Community Hall and the land appurtenant thereto comprised in S. No.15/1C, situate at Injambakkam Village, Tambaram Taluk, Kancheepuram District, forming part of approved layout bearing Ref. No.LDPM/DDTP No.151/1974 granted by the 5th respondent and to direct the layout promoter to hand over the said Community Hall and the land appurtenant thereto to the petitioner herein for the exclusive and beneficial use of the petitioner association and its members/owners/occupants of the plots in the layout in accordance with the proceedings of the 5th respondent bearing Ref.LDPM/DDTP No.151/1974.



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W.P. No.27479 of 2017 filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records of the 2nd respondent in Va.A(South) Na.Ka.No.A9/7545/2016 culminating in the order dated 7.6.2017 and quash the same and direct the respondents 1 to 7 and 9 to forthwith initiate immediate appropriate action against the 8th respondent by restraining/prohibiting the 8th respondent from putting up/constructing any restaurant/showroom and/or any other commercial enterprise in any form or for any other purpose in the Community Hall and in the land appurtenant thereto so as to ensure that the 8th respondent does not have any control and also prevent the 8th respondent from using in any manner and/or letting out on hire or otherwise using the Community Hall and the land appurtenant thereto comprised in S. No.15/1C, situate at Injambkkam Village, Tambaram Taluk, Kancheepuram District forming part of approved layout bearing Ref. No.LDPM/DDTP No.151/1974 granted by the 6th respondent and ensure that the said Community Hall and the land appurtenant thereto shall be used solely for the benefit of the petitioner association and its members/owners/residents of the plots in the layout bearing Ref. LDPM/DDTP No.151/1974.

For Petitioner : Mr. D.P.Raghunath

For Respondents : Mr. T.Gowthaman, AAG,
Assisted by Mr.D.B.R.Prabhu for



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RR-1 to 3 & 8 in WP 10369/2017
and for RR-1 to 4 & 9 in WP
27479/2017

Mr. C.Prabhakaran, Govt.
Counsel for RR-4 to 6 in WP
10369/2017 and for RR-5 to 7 in
WP 27479/2017

Mr. Arun C.Mohan for R-7 in WP
10369/17 and for R-8 in WP
27479/2017

COMMON ORDER

While the claim of the petitioner to have the right and title to the land, which had been earmarked as 'Community Hall' in the approved layout plan, from the hands of the layout promoter, viz., VGP Housing Pvt. Ltd. which stood negatived at the hands of the 2nd respondent is put to test before this Court in W.P. No.27479/2017, W.P. No.10369/2017 has been filed to prohibit the layout promoter from putting up any form of construction and/or altering/remodelling the existing construction in any manner whatsoever including for a restaurant/showroom/commercial purpose or for any other purpose and to hand over the Community Hall and the land appurtenant thereto to the petitioner herein for the exclusive and beneficial use of the petitioner association and its members/owners/occupants of the plots in the layout in accordance with the proceedings bearing Ref.LDPM/DDTP No.151/1974.



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2. In this order, for the sake of convenience, the 7th respondent in W.P. No.10369/17 and the 8th respondent in W.P. No.27479/2017, viz., VGP Housing Pvt. Ltd., who is one and the same, shall be referred to as 'layout promoter' while the 2nd respondent in W.P. No.27479/2017, who has passed the impugned order, would be referred to as the '2nd respondent'.

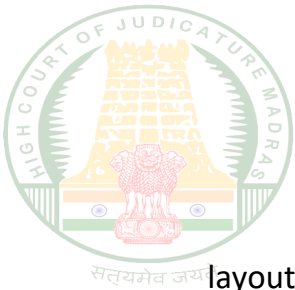
3. It is the case of the petitioner that the layout promoter acquired lands measuring 27 acres and 23 cents comprised in Survey No. 15 (part), situate at Injambakkam Village, Tambaram Taluk vide Sale Deed dated 04.12.1972, registered as Document No.3297/1972, in the office of the Sub-Registrar, Saidapet, which was divided into plots by the layout promoter and promoted as a layout known as VGP Golden Beach Layout (for short 'layout'). Thereafter, the layout promoter obtained layout approval from the 5th respondent vide proceedings Ref. Nos. LP/DM/DDTP No. 44/1973, LP/DM/DDTP No.150/1974 and LP/DM/DDTP No.151/1974. In which layout plan, common areas have been clearly earmarked in the layout reserving common spaces for use as parks, play-spaces, community hall etc., for the exclusive use and enjoyment of the purchasers/owners/occupiers of plots in the said layout.



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4. It is the further averment of the petitioner that upon obtaining approval for the layout, the layout promoter sold the plots to the present owners and their predecessors clearly stating that the layout has been approved by the Department of Town and Country Planning and common areas have also been specifically reserved for park, children play area and a Community Hall exclusively for the use of the owners/occupants of the plots in the said layout. Based on the aforesaid assurance of the layout promoter, the members of the petitioner Association/their predecessors had purchased plots in the said layout vide registered sale deeds from the layout promoter that the aforesaid common areas/facilities would be available for the exclusive enjoyment of the purchasers.

5. It is the further averment that the layout was promoted in 3 Phases, viz., Part-I, Part-II and Part-III and that the layout has been approved by the 5th respondent on the strength of the reservation of common area facilities provided by the layout promoter for the exclusive use of the purchasers of the plots in the said layout. It is further submitted that as per the layout approval granted by the 5th respondent, the land on the north-western side of the layout, viz., Part-I, measuring 15 Grounds and 1625 sq.ft., was specifically earmarked for a Community Hall for the benefit and use of the owners of the plot in the said



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layout. It is the further averment of the petitioner that the said area also falling within the layout, the layout promoter would not have any manner of right, title or interest in law over the aforesaid common areas and facilities which have been earmarked for the exclusive use and enjoyment of the owners/purchasers of the plots, who are presently members of the petitioner and that the said facilities would vest with the petitioner.

6. It is further averred that certain individuals acting on the instructions and at the behest of the layout promoter had earlier attempted to grab the lands which had been reserved for the exclusive use of the owners/purchasers of the plots as children play area and park and at the intervention of the petitioner with the assistance of the authorities, the said individuals were successfully prevented from grabbing the land. However, the layout promoter has been misusing the Community Hall and the land appurtenant thereto as a Kalyana Mandapam and commercially exploiting the same, thereby depriving the members of the petitioner from enjoying their rights over the said Community Hall.

7. It is further averred that despite several protests and requests made in person by the members of the Association to the layout promoter not to carry



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out any such activities at the Community Hall, the layout promoter, wielding its influence over the authorities had continued to misuse and commercially exploit the Community Hall as a Kalyana Mandapam to the detriment of the members of the Association and the representations made by the petitioner also did not evoke any proper response. Even the representations to the 1st respondent on in the year 2013 and 2014 for taking action against the layout promoter and to restore the Community Hall to the petitioner did not yield the desired result.

8. On account of the illegal, unlawful and unauthorized use of the Community Hall for the aforementioned purposes by the layout promoter, the members of the Association have been denied the use of the Community Hall for their use, thereby depriving them of a valuable right vested in them. Apart from denying such valuable right to the members, the layout promoter has also been unjustly enriching itself by carrying out commercial activities from the Community Hall.

9. Since no action was taken by the authorities inspite of the repeated representations of the petitioner, the petitioner filed W.P. No.14640/2016 seeking a direction to respondents 1 to 6 and 8 to take appropriate action against



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the layout promoter and this Court directed the 1st respondent to pass orders on the petitioners representation and after examining all the relevant records, pass a reasoned order, on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

10. It is the further averment of the petitioner that pursuant to the direction issued by this court, the petitioner, vide letter dated 13.06.2016, enclosed a copy of the said order dated 21.04.2016, and addressed the 1st respondent. The Deputy Commissioner, Corporation of Greater Chennai, vide his letter 10.06.2016, called upon the petitioner attend the personal hearing on 17.06.2016. The office bearer of the Petitioner Association attended the personal hearing on 17.06.2016, which was adjourned and subsequently taken up on very many dates, yet the Deputy Commissioner, though reserved the matter for orders, however, has not passed any orders inspite of the fact that the time granted by this Court expired on 15.8.2016.

11. It is the further averment of the petitioner that in view of the silence of the Deputy Commissioner in passing orders, the layout promoter, taking undue advantage of the same, is still in illegal possession and occupation of the said



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Community Hall and the land appurtenant thereto. It is further submitted that the layout promoter has taken steps to alter the existing building abetting the existing Community Hall, within the precincts of the Community Hall to house a restaurant within the same precincts of the Community Hall and in the land appurtenant thereto which rightfully and exclusively is earmarked for the usage and benefit of the petitioner. It is the further averment of the petitioner that the layout promoter has no right to put up a restaurant/showroom when the same is specifically earmarked for Community Hall. It is further averred that if the restaurant/showroom starts functioning, the same will pose traffic hazards and curtail the free flow of traffic in an already congested traffic junction at Injambakkam, besides causing a nuisance to residents in the neighbourhood including members of the Association.

12. It is the further averment of the petitioner that highlighting all the above, the petitioner vide letter dated 10.03.2017 called upon the 1st respondent to take necessary action against the layout promoter, barring them from putting up any restaurant/showroom in the Community Hall and in the land appurtenant thereto and for a further direction to the layout promoter to hand over the said Community Hall and the land appurtenant thereto to the petitioner in



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accordance with the proceedings of the Director of Town and Country Planning and inspite of the receipt of the said letter on 17.3.2017, the 1st respondent not having taken any action on the same, the same has necessitated the filing of W.P. No.10369/2017.

13. Pursuant to the filing of W.P. No.10369/2017 and notice having been issued on the same, after a lapse of 9 months from the date of passing of the order, the 2nd respondent, by order dated 7.6.2017 held that the Community Hall and the appurtenant land belonged to the layout promoter. It is the further averment of the petitioner that the said order is against Clause 29 (8) of the Second Master Plan of Chennai Metropolitan Development Authority. It is further averred that while personal hearing was conducted by one officer, while the impugned order has been passed by another officer and not the one who conducted the enquiry and, therefore, the said order cannot stand the test of legal scrutiny and it is liable to be set aside.

14. It is the further averment of the petitioner that reference has been drawn to the report dated 22.3.2017 and 2.5.2017 of the Zonal Officer, Zone-15 and the Executive Engineer, which reports were not provided to the petitioner



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and opportunity was given to the petitioner to respond to the said report, which is a glaring violation of principles of natural justice and the impugned order having been passed based on the said reports suffers from gross irregularity and incurable illegality. It is the further averment of the petitioner that the 2nd respondent ought not to have relied upon the subsequent reports dated 22.3.2017 and 2.5.2017 when the matter was already heard and reserved for orders on 15.7.2016 and the reliance placed on the subsequent reports without providing the same to the petitioner and hearing it on the same vitiates the impugned order passed by the 2nd respondent.

15. It is the further averment of the petitioner that the rejection of the claim of the petitioner is based on Clause 29 (8) of the Second Master Plan of Chennai Metropolitan Development authority, which came into effect in the year 2008, but the layout was approved way back by the 6th respondent in the year 1974 and, therefore, the rules and regulations laid down in the Second Master Plan would not be applicable to the present case and, therefore, the order passed by the 2nd respondent is wholly untenable and devoid of merits.

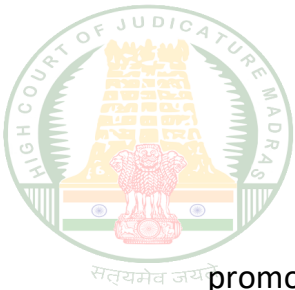


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16. In fine, it is averment of the petitioner that the directions issued by this Court in W.P. No.14640/2016 with regard to the manner in which the enquiry has to be conducted has not been followed and the impugned order has been passed by a person, who did not conduct the enquiry and the reports, which were relied on, were obtained subsequent in point of time to the enquiry and the copies were not furnished to the petitioner and the whole enquiry stood vitiated and the orders passed on the basis of the same, therefore, is grossly arbitrary, illegal and erroneous and the orders passed by the 2nd respondent has allowed the layout developer to continue to use and enjoy the said community hall and allowing it to convert the same into a restaurant/showroom, to which it has no right and, therefore, the same requires to be interfered with by setting aside the impugned order dated 7.6.2017 and handing over the community hall together with the appurtenant land to the petitioner.

17. Learned counsel appearing for the petitioner submits that the failure on the part of official respondents to take action against the layout promoter/layout promoter is arbitrary, unreasonable and smacks of mala fides and it has put the petitioner to irreparable loss and hardship, as the absence of proper inaction on the part of the official respondents has allowed the layout



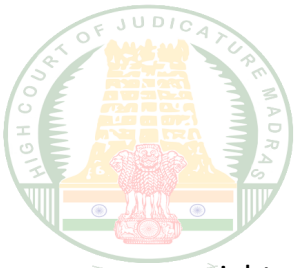
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promoter to usurp the lands and continue to enjoy the same illegally and unlawfully and use the same in an unauthorized manner as Community Hall, including the appurtenant land of enriching itself.

18. It is the further submission of the learned counsel that the layout promoter, viz., the layout promoter, is exploiting the community hall and the lands appurtenant thereto to the detriment of the petitioner, though the said lands form part of the layout and the said lands are lands, which ought to have been handed over to the petitioner once the layout promoter handed over the affairs of the layout to the petitioner. In spite of the fact that the entire affairs have been handed over to the petitioner, the layout promoter/layout promoter has retained the Community Hall and the lands appurtenant thereto to the detriment of the petitioner for the purpose of commercial gain, which is contrary to the layout approval granted by the Town and Country Planning authority.

19. It is the further submission of the learned counsel that though the said lands in which the Community Hall is put up and the lands appurtenant thereto, belongs to the petitioner, yet the petitioner and its members have been denied the use of the Community Hall for their use, thus depriving them of a valuable



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right vested in them and it is being given to outsiders for unjust enrichment of the layout promoter.

20. It is the further submission of the learned counsel that even the approval granted by the Town and Country Planning authority would reveal that the approval granted by it would not confer any right on the layout promoter to the use of the Community Hall and the lands appurtenant thereto either as a Kalyana Mandapam or a restaurant or otherwise, as the said lands are the exclusive right of the petitioner, who holds ownership and control over the said lands.

21. It is the further submission of the learned counsel that the act of the layout promoter to remodel/alter the present community hall into one of a restaurant/showroom would not only affect the free flow of traffic, but would also cause nuisance and inconvenience to the residents in the neighbourhood and also the members of the petitioner.

22. It is the further submission of the learned counsel that the impugned order dated 7.6.2017 passed by the 2nd respondent is illegal and unreasonable as



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it has been passed after a period of 10 months from the completion of enquiry and on the basis of certain materials, which were submitted before the 2nd respondent after conclusion of the arguments, without providing a copy of the same to the petitioner, thereby there is clear infraction of principles of natural justice and, therefore, the impugned order suffers the vice of illegality.

23. It is further submitted that the impugned order has been passed by an officer, who did not hear the matter, as the officer, who had conducted the enquiry and heard the arguments of either side has since been replaced before passing of the order and therefore the said order requires to be set aside.

24. It is the further submission of the learned counsel that the Second Master Plan of the Chennai Metropolitan Development Authority would not be applicable to the layout of the petitioner, as the same was approved by the 6th respondent in the year 1974 and, therefore, the Second Master Plan having come into existence in the year 2008 would not be applicable to the facts of the case and, therefore, the reliance placed on the same in the impugned order is wholly untenable and devoid of merits.

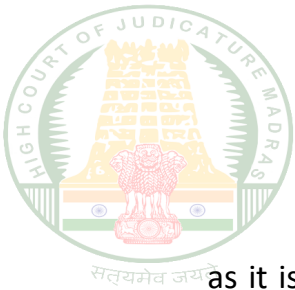


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25. It is further submitted that the OSR lands, like the lands in which the community hall is built as also the appurtenant lands, even otherwise belongs to the public for their use and it cannot be used for personal benefit, but the layout promoter is commercially exploiting the community hall and the lands appurtenant thereto for its own benefit, which have been specifically earmarked for the benefit of the members in the layout, which causes detriment to the petitioner, but which facts have not been properly taken into consideration by the authority while passing the impugned order and, therefore, the same is in gross violation of law and contrary to the principles laid down in various decisions of the Apex Court.

26. In fine, it is the submission of the learned counsel that the continual holding of the community hall and the appurtenant lands by the layout promoter, inspite of the impugned order passed by the 2nd respondent which is against the authority under the Second Master Plan is wholly erroneous, illegal, irregular and arbitrary and, therefore, this Court not only to has to set aside the impugned order, but further direct the 2nd respondent to restore the community hall and the appurtenant lands to the petitioner from the hands of the layout promoter,



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as it is the petitioner, which is the lawful owner of the property and, therefore, prays for allowing the present writ petitions.

27. In support of the aforesaid submissions, learned counsel placed reliance on the decision of the Division Bench of this Court in ***K.Rajamani & Ors. – Vs – Alamunagar Residents Welfare Association & Ors. (2011 (1) CTC 257).***

28. Per contra, learned Addl. Advocate General appearing for the Greater Chennai Corporation, drawing the attention of this Court to the counter filed by the Zonal Officer submitted that based on the directions issued by this Court in the earlier round of litigation filed by the petitioner in W.P. No.14640/2016, the 1st respondent, after affording opportunity to the petitioner as also the layout promoter, with regard to the right and title, considered the submissions of both sides during which time it was submitted on behalf of the petitioner that the land, which was exclusively reserved for the Community Hall vest with the petitioner for enjoyment of its members, while it was countered by the layout promoter that the said area is meant for the community hall are saleable area, which vests with the layout promoter and it need not be handed over to the local body and that there is no violation of the terms and conditions of the layout and



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after considering the submissions advanced, the Regional Deputy Commissioner (South) passed orders rejecting the claim of the petitioner vide order dated 7.6.2017 by placing reliance on Clause 29 (8) of the Second Master Plan of Chennai Metropolitan Development Authority.

29. It is the further submission of the learned Addl. Advocate General that one other individual had filed a petition in W.P. No.24496/2017 and a Division Bench of this Court, advertent to the impugned order dated 7.6.2017, disposed of the petition with liberty to the petitioner therein to challenge the order if aggrieved. Such being the case, there being no statutory embargo for the layout promoter to use the said land for the purposes for which it has been earmarked, so long it is not required by any department and has not been acquired under the Land Acquisition Act, the petitioner cannot seek right over the community hall and also the appurtenant lands. It is the further submission of the learned Addl. Advocate General that the said lands are Open Space Reserve lands and, therefore, the right over the lands would vest with the local authority and the petitioner cannot seek any right and title over the said lands. Therefore, it is submitted that there is no illegality or arbitrariness in the order impugned herein and no interference is warranted with the said order.



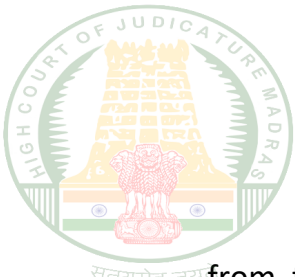
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30. In contrast, learned Government counsel appearing for the local authority, viz., the Tahsildar, placing his arguments on the basis of the counter filed, submitted that as per the approval granted to the layout, the land has been earmarked for community hall, but as of now, a hotel, a church and a marriage hall are functioning in the said lands.

31. In this regard, it is the submission of the learned Government counsel that though as per the layout, the lands have been earmarked for community hall, as per the directions of this Court, pursuant to the inspection, when the layout promoter was called upon to produce the planning permission with regard to the permission granted for construction of the aforesaid buildings, however, the layout promoter has not placed any materials to show that the said buildings has the approval of the appropriate authority.

32. It is the further submission of the learned Government counsel that as per the Tamil Nadu Panchayat Act, Tamil Nadu District Municipalities Act and the Tamil Nadu Combined Development and Building Rules, any person, who seeks to utilise a premise for any religious purpose is required to obtain prior permission



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from the District Collector. In respect of the building put up by the layout promoter, while no building approval has been submitted by the layout promoter, it is the further submission of the learned Government counsel that Injambakkam Village of Sholinganallur Taluk was under the jurisdiction of the office of the District Collector, Kancheepuram District till 15.08.2018 and on and from 16.08.2018, the jurisdiction of the said Injambakkam Village stood changed under the control of the Chennai District Collector.

33. In this regard, it is the submission of the learned Government counsel that as per Rule 6 (4) of the Tamil Nadu District Municipalities Building Rules, 1972, no site can be used for the construction of a building intended for public worship or religious purpose without the prior approval of the Collector of the District and it is open to the said authority to refuse such approval if, in his opinion, the use or purpose of the site and building is likely to endanger public peace and order. It is the further submission of the learned Government counsel that the church has been functioning in the said building and the church authorities have not obtained any prior approval from the officer of the District Collector, Chennai, since 16.8.2018 and, therefore, the statutes neither permitted for change of usage of the lands, which have been approved in the layout and



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also does not permit running of a religious place without the approval of the District Collector of the said area and, therefore, the lands could not be put to any other use than the one for which it has been intended upon in the layout. Accordingly, he prayed for appropriate directions.

34. Learned counsel appearing for the layout promoter submitted that the schedule property remains under the exclusive ownership of the layout promoter, which is supported by patta and all the revenue records as well stand in the name of the layout promoter. It is the further submission of the learned counsel that the layout promoter has not received any notice or communication from any authority claiming ownership or acquisition of the schedule property and, therefore, the ownership of the layout promoter over the said property is absolute and it does not fall within the definition of public purpose as defined under the Act.

35. It is the further submission of the learned counsel that under the Tamil Nadu Town and Country Planning Act, 1974, the allocation of land under public purpose is governed by Sections 36 and 37, which clearly prescribes that only if such land is sought for by any authority, they have to resort to the procedure



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contemplated under the aforesaid provisions. However, no authority has sought for the lands since the formation of layout and, therefore, the said lands stood exclusively under the ownership of the layout promoter and, therefore, the petitioner or for that matter no other authority could claim ownership or right over the said lands.

36. It is the further submission of the learned counsel that even the authorities cannot resort to take over of the lands under the Land Acquisition Act, 1894 for the reason that *public purpose* is defined u/s 3 (f) of the Land Acquisition Act, which will not take within its fold land, which has been allocated for community hall under the approved layout.

37. It is the further submission of the learned counsel that under the Tamil Nadu Town and Country Planning Act, 1971, open spaces are to be reserved for certain activities, which has been provided under the said Act and the land, which is earmarked for community hall would not come within the scheme of the definition of public purpose as contemplated u/s 3 (f)(vi) of the Land Acquisition Act. It is the further submission of the learned counsel that even if the said land, which is earmarked as community hall in the layout is to be deemed to be



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reserved for a public purpose, necessarily the authority has to follow the procedure prescribed to claim the said land under the Town and Country Planning Act, 1971 for putting it to use for a public purpose. However, no material has been proceed to establish that the said land was ever acquired, purchased, transferred or otherwise vested with any authority and in the absence of any material, the layout promoter holds the right and title to the land and it could be used by the layout promoter as per the approval granted by the authority.

38. It is the further submission of the learned counsel that the first master plan for the city of Madras came into effect only on 5.8.1975 and as per the said First Master Plan, CMDA is the authority to deal with liability to earmark open space for public and recreational purposes in a particular layout. However, the layout having been approved in the year 1974 prior to the coming into force of the First Master Plan, earmarking of a place in the layout for a particular act, would not devolve on any authority and would be held in control only by the layout promoter. Further, the concept of mandatory community area reservations in a saleable layout did not exist in 1974 when the layout was approved and, therefore, the petitioner cannot right and title to the said lands.



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39. It is the further submission of the learned counsel that Section 29 (8) of the Second Master Plan for Chennai Metropolitan Development Area prescribes that 10% of the layout area shall be reserved for public purpose and interested departments shall be given intimation of the layout approval so as to enable them to purchase the said land from the owner/layout developer on payment of cost of the plots so reserved. In the absence of any acquisition, conveyance, dedication or vesting of the subject property, the claim of the petitioner, let alone the official respondents cannot be enforced, as the layout promoter still holds right, title and interest over the said property.

40. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record as also the decision relied on, on behalf of the petitioner.

41. In these petitions, the following issues arise for consideration :-

- i) *Whether the space earmarked for community hall in the layout could be put to use for any other purpose other than the one for which it has been earmarked.*



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ii) *Whether the space, which is earmarked as 'Community Hall' in the layout is a space earmarked as Open Space Reserve.*

iii) *In the absence of determination of the nature of the space shown as 'Community Hall' in the layout, whether the petitioner or the layout promoter could claim absolute ownership and right over the said space earmarked for community hall in the layout.*

ISSUE NO.1 :

Whether the space earmarked for community hall in the layout could be put to use for any other purpose other than the one for which it has been earmarked.

42. There is no dispute about the fact that the layout was promoted by the layout promoter for which approval was granted vide Ref. No.LDPM/DDTP No.151/1974. In the said layout plan, there is clear earmarking for reserve space for roads and other amenities, viz., children's play space, restaurant, health club, cafeteria, meditation centre, shops, etc. Along with the said area, a space, to the



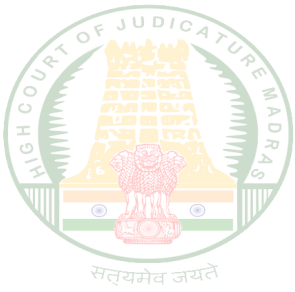
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extent of about 15 grounds 1625 sq.ft. on the North Western side of the layout has been earmarked for Community Hall.

43. On the basis of the specific layout design, the layout floated by the layout promoter has been approved by the Town Planning Authority. In the layout, which is claimed to have been floated in three parts, viz., Part-I, Part-II and Part-III, it comprises a total of 180 plots and the space reserved for all the amenities mentioned above are specifically earmarked in the layout, which is to usable by the users in the layout.

44. As aforesaid, space for a community hall has been provided for in the layout, which has been approved by the Town Planning Authority. It is claimed that till date the said community hall as also the lands thereto are under the control of the layout promoter, inclusive of right and title. Moreso, it is the stand of the layout promoter that not only the right and title, but possession as well is with the layout promoter. It is the uncontroverted stand of the parties that the said space was earmarked for the purpose of a community hall in the layout plan, which has since been approved.

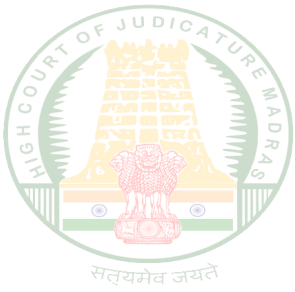


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45. However, it is the specific case of the petitioner herein that the said land which was housing a community hall has since been converted into a restaurant and a church. This conversion, according to the petitioner is impermissible, as the space that has been specifically earmarked as community hall in the layout and, therefore, it cannot be converted to be used for any other purpose and in this regard reliance has been placed on the decision of the Division Bench of this Court in *Alamunagar Residents Welfare Association case (supra)*.

46. In *Alamunagar Residents Welfare Association*, the Division Bench of this Court had occasion to consider as to whether an area earmarked in the layout approved by the Town and Country Planning Authority for a specific public purpose, while approving a layout, could be changed for a different purpose and in this context, the Division Bench held thus :-

“17. For our purpose, the extent of land in a new town development area owned by a private person shall be used only in conformity with such development as provided under Section 47 of the Act. For such use, such person should apply to the appropriate planning authority for permission to erect any building or make or extend any excavation or carry out any mining or other operation, make any material change in the use of the land or construct, form or lay out any work. For that

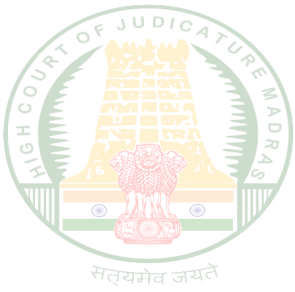


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purpose, one should make an application for permission under Section 49. In terms of Sub-section (2) of Section 49, the appropriate planning authority is required to consider the purpose for which the permission is required, the suitability of the place for such purpose and the future development and maintenance of the planning area. In terms of Sub-section (3) of Section 49, the appropriate planning authority may also refuse to grant permission to any person, but by giving reasons thereof. Once the planning permission is granted, the appropriate planning authority would have power to either revoke or modify the permission granted in terms of Section 54 of the Act. Of course, there is a general power conferred on the Government under Section 90 of the Act to call for records, examine the same and pass orders after satisfying themselves as to the regularity of such proceedings or correctness, legality or propriety or any decision passed or made therein. This power would be available to the Government only in respect of either the permission granted or refused by the appropriate planning authority for a land to be put into use in a developed area. This power cannot be extended to the permission accorded by the Government for the purpose of approval granted by it in terms of Section 28 for regional plan, master plan or the new town development plan, as those plans could be varied, revoked or modified only under Section 32. In our considered view, such power cannot be extended to alter, revoke or modify the conditions imposed in the layout plan. In that view of the matter, we hold that once such permission is accorded and in that permission if a specified area is



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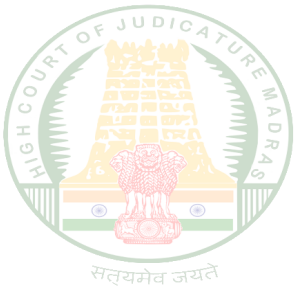
earmarked for public purpose, even the planning authority shall not have power to exempt that land for being put to use for any other purpose. In that context, the State Government also cannot have any jurisdiction to alter the conditions imposed in the layout, whereby certain lands are earmarked as open space to be used for public purposes.

.....

20. This Court has also ruled that the area reserved for public purpose cannot be altered to be put to use for any other purpose in the decision in Villupuram Municipality represented by its Commissioner, Villupuram v.M. Subramanian and Ors. (2000) 3 MLJ 375. A Division Bench of this Court in Karpaga Nagar Nala Urimai Sangam rep. by its Secretary, Shanmugavel v. Municipal Administration and Water Supply Department rep. by its Secretary Chennai and Ors. MANU/TN/8449/2007 : (2007) 4 MLJ 1006, after considering in detail the provisions of the Act, has held that the open space earmarked for public purpose cannot be altered. This Court has further held that the layout sanctioned by the municipal authority cannot be altered by the Government by issuance of a Government Order de-reserving such plots.

21. A survey of the above law shows that the land once earmarked for public purpose cannot be earmarked for any other purpose and, particularly, to de-reserve or put to use as housing plots. (See Krishna Nagar Residents Welfare Association v. Director of Town and Country Planning (2001) 3 LW 828.

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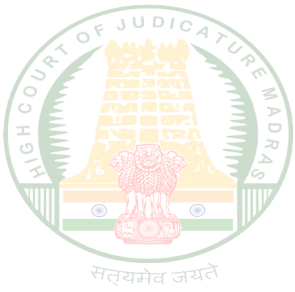


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23. Point Nos. (iii) & (iv): The next contention is as to whether in the absence of any proceedings under the Land Acquisition Act, the Municipal Corporation can claim a right over the property. The contention of Mr. K.M. Vijayan, learned senior counsel is that after the land is deemed to be the land needed for public purpose within the meaning of Land Acquisition Act in terms of Section 36, a declaration in this regard should be made under Section 37. In the event no declaration is made within a period of three years after the publication of notice in the gazette as to the preparation of regional plan, master plan or the new town development plan, as the case may be, the land shall be deemed to be released from such reservation, allotment or designation under Section 38 of the Planning Act. In terms of Section 26, notice of preparation of regional plan, master plan or the new town development plan should be published in the Government Gazette after the appropriate planning authority had received the consent of the Government under Sub-section (2) of Section 24. Thereafter, the Government is competent to acquire the land under the provisions of the Land Acquisition Act as contemplated under Section 36 and for that purpose, a notice shall be also published in the Tamil Nadu Government Gazette under Section 37. In the event such notice is not made within a period of three years from the publication of notice under Section 26 or 27, the land shall be deemed to be released from such reservation, allotment or designation. This contention would be available to a land owner before he/she makes an application for approval of the layout plan as to the

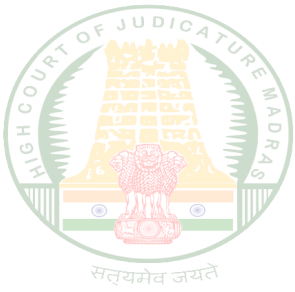


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entitlement of a land owner for release of such land for non-compliance of the provisions of Sections 26, 27, 37 and 38 of the Planning Act. In this context, we may refer to the judgment of the Apex Court in Balakrishna H. Sawant and Ors. v. Sangli Miraj and Kupwad City Municipal Corporation and Ors. MANU/SC/0164/2005 : (2005) 3 SCC 61. In that case, certain lands were reserved for high school and playground in a development plan. The concerned Municipal Corporation did not offer sufficient financial resources to construct the school and playground on the land and therefore the Municipal Corporation did not take action. In the meantime, the Government also took a stand that the reservation had lapsed and in that circumstance, the Apex Court had directed the release of the land. The above judgment was quoted with approval in Raju S. Jethmalani and Ors. v. State of Maharashtra and Ors. MANU/SC/0362/2005 : (2005) 11 SCC 222 relating to the power of the Government for de-reservation. In both the judgments, the power of the Government for de-reservation has been upheld prior to the stage of approval of the layout and not afterwards. It is one thing to say that the land should be released to the owner and another thing to say to change the use of the said land. In this case, the question is whether after the layout has been approved showing certain extent of land to be used as park, etc., whether it could be de- reserved for the use of housing plots by an order of the Government. The Government's power to de-reserve the land is not available after the layout plan is approved, except as per the provisions of Section 90, which



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confers power on the Government only in respect of legality or correctness of the layout plan and not in respect of power to change the usage of the land as shown in the layout. Therefore, the contention of the learned senior counsel that in view of non-compliance of the provisions of the Land Acquisition Act, the land in question shall be deemed to have been released cannot be accepted on the facts of this case. Equally, we also hold that in the absence of acquisition of land in terms of Sections 36, 37, 38 of the Planning Act, the Municipal Corporation cannot claim right over the land, as the right of the owner cannot be deprived except following the above procedure. We may also mention that the owner of the land has not executed any gift deed as well in respect of the open space in favour of the Municipal Corporation, thereby the Corporation could claim a right over the land for all legal purposes.”

47. From the ration laid down in the above decision, it is implicitly made clear that the lands, which have been earmarked for a particular public purpose in a layout, which has been approved by the Town Planning Authority, cannot be converted/used for any other purposes, even be it another public purpose.

48. In the present case, it is the specific case of the petitioner that the land, which has been earmarked for community hall on the north-western side of



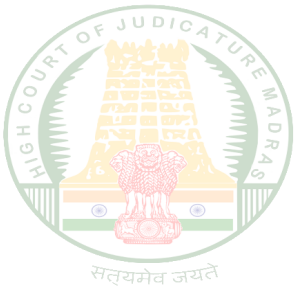
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the layout has been converted into a restaurant and church, which fact is not disputed by the layout promoter even.

49. In this regard, the learned Addl. Advocate General has placed before this Court the communication addressed by the Tahsildar, Sholinganallur Taluk to the Government Advocate in which it has been stated that the lands in patta No.797 in sub-division S. No.15/20 in S. No.15/C belongs to V.G.P. Housing Pvt. Ltd. and that in the sub-division in S. No.15/20, Vasantha Bhavan Hotel and a Church are functioning. It is further reported by the Tahsildar in the said letter that the said Church has been built without any proper planning permission and without the approval of the District Collector.

50. It is the case of the official respondents that the layout promoter has not placed any plan to substantiate that permission has been obtained from the appropriate authority under the Tamil Nadu District Municipalities Act and the Rules to construct the building and use it for the purpose of a hotel and also a church, which is a religious activity.



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51. This Court, vide its order dated 30.01.2026 had called upon the layout promoter to submit the planning permission for putting up construction of a hotel and church. Further, the layout promoter was also directed to place the permission obtained from the District Collector for using the constructed portion as a church for conducting religious activity aimed at the public, as has been mandated under the Tamil Nadu District Municipalities Act and the Rules. Thereafter, on 16.2.2026, when the aforesaid materials were not produced, this Court had called upon the learned Addl. Advocate General to obtain instructions from the District Collector, Kancheepuram, as to whether any permission has been granted by the authority for operating the building for public worship or religious purpose.

52. Later during the course of hearing, a planning permission for construction of building granted by CMDA dated 17.6.1997 and also the permission of the Panchayat dated 10.7.1997 have been placed before this Court on behalf of the layout promoter. Though the land in the layout has been earmarked for 'community hall', however, curiously, the application for planning permission sought for by the layout promoter, which has been placed before the Court, dated 17.6.1997 relate to construction of '*Temple for VGP Ulaga Tamil*



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Sangam Building’ in S. No.15/1C. Even before the panchayat, application dated 10.7.1997 has been submitted seeking building permission for construction of *‘Temple for VGP Ulaga Tamil Sangam’* in S. No.15/1C based on the approval granted by CMDA.

53. At the risk of repetition, it is to be noted that this Court, vide its earlier order, had sought for details of planning permission relating to construction put up on the lands, which are the subject matter of dispute, which has been earmarked for a community hall and based on the said direction, the Tahsildar, Sholinganallur Taluk, has submitted his report to the Government Advocate, High Court, in which it has been categorically mentioned that in S. No.15/20, which forms part of the layout, Vasantha Bhavan Hotel and a church are functioning. Further, the Tahsildar has stated that the church has been constructed without obtaining any permission.

54. In this backdrop, it is to be pointed out that from the counter affidavit of the Tahsildar, Sholinganallur, it is clearly evident from para-7 therein that till 15.8.2018, the said lands were under the jurisdiction of the office of the District Collector, Kancheepuram District and on and from 16.8.2018, the jurisdiction



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stood transferred to the District Collector, Chennai. Further, as per Rule 6 (4) of the Tamil Nadu District Municipalities Rules, 1972, no site could be used for construction of a building intended for public worship or religious purpose without the prior approval of the Collector of the said District, who may grant/refuse approval, subject to his opinion on public peace and order. No document of the Collector of Chennai or Kancheepuram has been placed before this Court to show that such permission was obtained for putting up a church.

55. Without admitting, even if a church is put up with the permission granted by the District Collector, the said permission would be impermissible and illegal in view of the decision of this Court in *Alamunagar Residents Welfare Association case*, wherein the Division Bench has categorically held that an area earmarked by the Town Planning Authority for a specific public purpose while approving a layout cannot be utilised for any other purpose and such being the case, the layout promoter cannot change the purpose from that of a community hall to any other purpose and, therefore, putting up of a hotel and a church in the land earmarked for community hall is against the approval granted by the Town Planning Authority and, therefore, necessarily, the building which has been put to



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use for the said purposes now are to be stopped and the said lands could only be used as a community hall. ***Issue No.1 is answered accordingly.***

ISSUE NO.2 & 3 :

Whether the space, which is earmarked as 'Community Hall' in the layout is a space earmarked as Open Space Reserve.

In the absence of determination of the nature of the space shown as 'Community Hall' in the layout, whether the petitioner or the layout promoter could claim absolute ownership and right over the said space earmarked for community hall in the layout.

56. Since the determination of the aforesaid issue Nos.2 and 3 lean more on the adjudication that is to be made of issue No.2, both the issues are taken up together for adjudication.

57. The layout was developed and approved in the year 1974 and sold thereafter and the members of the petitioner Association and their predecessors in title had purchased the lands from the layout promoter upon its development, approval and sale. However, very sadly, no detailed materials referencing the manner in which layout approval has been granted by Town Planning Authority



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has been placed either by the petitioner or the official respondents or even the layout promoter. A bald approval granted by the Town Planning Authority, which is unreadable and does not carry any details with regard to conditions laid in the grant of the said approval by the Town Planning Authority has been placed before this Court by any of the parties. The layout promoter has submitted only the permission sought for with regard to construction of a '*Temple for VGP Ulaga Tamil Sangam*', which was submitted in the year 1997. Prior to that, the manner in which the said land was used or the construction put up therein has not been spelt out by any of the parties to the *lis*.

58. In respect of material with regard to approval, as stated above, an illegible copy of an approval of the Town Planning Authority has been placed before the Court and the conditions annexing the said approval has not been placed. However, the master plan of the layout has been placed before this Court, which shows that the layout consists of about 180 plots in three phases, as Part-I, Part-II and Part-III. In the layout, as already stated above, reservation has been provided for roads and other amenities, viz., children's play space, restaurant, health club, cafeteria, meditation centre, shops, etc. Along with the said area, a space, to the extent of about 15 grounds 1625 sq.ft. on the North



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Western side of the layout has been earmarked for Community Hall. All these facts are not disputed by the parties. However, the entire case of the layout promoter is premised on the fact that the right and title to the space earmarked for the said community hall is with the layout promoter and, therefore, if the same is not required by any department or authority of the Government within a period of three years as per the Second Master Plan, during which the said lands could be acquired in accordance with law, it is open to the layout promoter to deal with the said lands at his disposal in the manner which is beneficial to the layout promoter.

59. However, it is countered by the petitioner by submitting that the entire layout is approved by the Town Planning Authority and what is approved, including space reserved for the amenities provided in the layout cannot be altered by the layout promoter and the entire lands in the layout is to be used for the benefit of the owners/users in the layout and the layout promoter cannot be the single beneficiary by using the lands to enrich itself, which forms part of the layout.



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60. To appreciate the aforesaid contention, it is necessary to look at the Tamil Nadu Town & Country Planning Act, 1971, (for short 'Act, 1971') the provisions of which were in force at the relevant time when the layout approval was granted.

61. Sub-section (2), (22), (31) and (36) of Section 2 of Act, 1971 defines 'amenities', 'land' 'plot' and 'public purpose' which are as under :-

"Definitions :-

.....

(2) "amenities" includes streets, open spaces, parks, recreational grounds, play-grounds, water and electric supply system, lighting, sewerage, drainage, public works and other utilities, services and conveniences;

.....

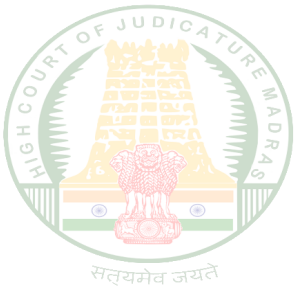
(22) "land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth;

.....

(31) "plot" means a continuous portion of land held in the ownership other than land used, allotted or restored for any public purpose or any purpose connected with local administration carried on by any local authority;

.....

(36) "public purpose" means any purpose which is useful to the public or any class or section of the public;"

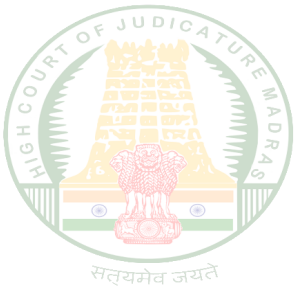


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62. From the above definitions, it is clear that any benefits arising out of the land, which is attached to the earth and any plot, which is used, allotted or restored for any public purpose, which benefits the public or a section of the public, moreso, by way of utilities, services or conveniences, would partake the character of 'amenities' as defined under Act, 1971.

63. In the backdrop of the aforesaid definitions, could the land, which has been earmarked for the purpose of '*community hall*' in the layout, which has since been approved by the Town Planning Authority in the year 1974, which has resulted in the formation of the layout be held to be a convenience defined as 'amenities' provided u/s 2 (2), in addition to other amenities as provided therein for the benefit of the owners/users in the layout is the larger question that arises for determination. It is the specific case of the layout promoter that it has not parted with the said lands and that it does not form part of the space reserved for public purpose and it specifically belongs to the layout promoter alone and, therefore, it would clothe the layout promoter singly with the right to deal with the property in any manner as it so desires.

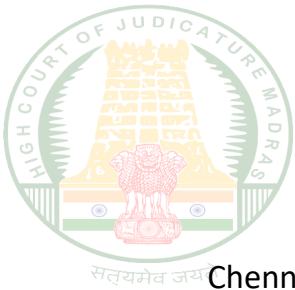


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64. It is the specific stand of the layout promoter that all lands earmarked for common areas were handed over to the local authorities almost four decades back and that the same are enjoyed by the owners/users in the layout, which consists of childrens' play space, meditation centre, restaurant, owners' area, etc., and the land in which the community hall is put up in the year 1997 was not a common/reserved area meant for the benefit of the owners, but the said land is specifically owned by the layout promoter by retaining the right and title over the land and it is the further stand of the layout promoter that no department of the Government has sought for acquisition of the said land and, therefore, upon lapsation of three years from the date of the Second Master Plan, the land stood reverted back to the layout promoter to be used in any way it deemed fit and, therefore, in the year 1997, the land was put to use by the layout promoter by obtaining planning permission from CMDA and also the local panchayat.

65. It is borne out by record that on the date when the layout was approved, the Master Plan of the Chennai Metropolitan Area was not there. In fact, on the said date when approval was granted in the year 1974, the layout was not even within the District limits of Chennai, but it was within the Kancheepuram District. Only from August, 2018, the layout fell within the



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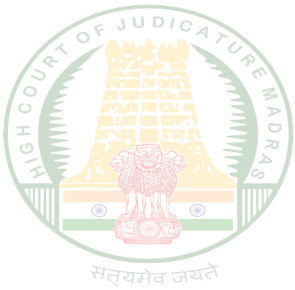
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Chennai Metropolitan Area. Therefore, the layout would not fall within the First Master Plan for the Chennai Metropolitan Area.

66. Therefore, it is for this Court to decide whether the said lands are earmarked as 'Open Space Reserve', which would enure to the benefit of the public including the owners/users of the layout. Before proceeding on the concept of Open Space Reserve, on which the entire case lingers, it would be apt to refer to the decision of this Court in ***M.Krishnaswamy – Vs – The Member Secretary, CMDA & Anr. (W.P. No.14670/2010 – Dated 25.09.2012)***, wherein, V.Ramasubramaniam, J., as the Hon'ble Judge then was, had occasion to examine the scenario which led to the conceptualisation of Open Space Reserve and its formulation under the Master Plan for Chennai Metropolitan area and in that context held thus :-

"16. At this juncture, a small prelude is necessary, to understand how the liability to earmark open space for public and recreational purposes, in a land developed into a layout and how the liability to pay OSR charges, came into existence. Hence it is presented as follows:-

(i) Section 9-C, Chapter II-A of the Tamil Nadu Town and Country Planning (Amendment) Act, 1973 (Tamil Nadu Act No.22 of 1974) prescribed that the Madras Metropolitan Development



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Authority shall carry out a survey of Madras Metropolitan area and prepare a Master Plan as referred to in Section 17.

(ii) Accordingly, MMDA carried out necessary surveys and studies and prepared the First Master Plan for the Chennai Metropolitan Area in 1975. The Government approved the same in G.O.Ms.No.2395, Rural Development and Local Administration dated 4.12.1976.

(iii) The First Master Plan covered an extent of approximately 1170 sq. kms. It included within the City of Chennai, a part of Ambattur Taluk, Tambaram Taluk, Tiruvallur Taluk, Chengalpet Taluk, Sriperumbudur Taluk, Ponneri Taluk and Poonamallee Taluk.

(iv) Under the said Plan, all lands in the Metropolitan Area were categorised into 10 zones such as Primary Residential Use Zone, Mixed Residential Use Zone, Commercial Use Zone, Light Industrial Use Zone, General Industrial Use Zone, Special and Hazardous Industrial Use Zone, Institutional Use Zone, Open Space and Recreational Use Zone, Agricultural Use Zone and Non-Urban Use Zone.

(v) Along with the First Master Plan, a set of rules known as Development Control Rules were issued by the Government. These rules dealt with (i) permission for development (ii) use zones and (iii) general provisions.

(vi) Rule 19 of the Development Control Rules, which comes under Part III, under the heading "General Provisions" deals with layout and subdivision.



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(vii) *The liability to reserve a portion of the site in a layout as open space, arose out of Rule 19 of the Development Control Rules, till these rules were in operation.*

17. Rule 19 of the Development Control Rules contains a Table which prescribes the minimum width of the streets and roads in different types of layouts. Just below the Table under Rule 19, there is a Note. The said Note contains 3 prescriptions. The third prescription in the said Note contains a Table indicating the extent of land to be reserved for communal and recreational purposes in a layout or subdivision for residential, commercial, industrial or combination of such uses.

18. The Table under the Note under Rule 19 appears to have undergone several changes in the past about 3 decades. In the year 1977-78, the open space to be reserved in a layout for communal and recreational purposes, was prescribed as follows:-

Extent of layout (1)	Reservation (2)
(i) Upto 2500 sq. meters	Nil
(ii) Between 250 square meters and 10,000 square meters	10% of the area excluding roads or in the alternative, he shall pay 1-1/2 times the market value of equivalent land as per the valuation of the Registration Department.
(iii) Above 10,000 sq. meters	10% of the area excluding roads shall be reserved and this space shall be maintained as Communal and Recreational open space to the satisfaction of the Authority or transferred to the Authority for maintenance.

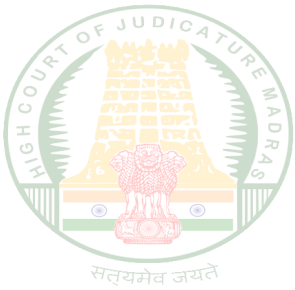


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19. But by G.O.Ms.No.743, Housing and Urban Development Department, dated 10.5.1979, the above Table was modified as follows, with retrospective effect from 5.8.1975:-

Extent of layout (1)	Reservation (2)
(i) Upto 3000 sq. meters	Nil
(ii) Between 250 square meters and 10,000 square meters	10% of the area, excluding roads or in the alternative, he shall pay single rate of market value of equivalent land as per the valuation of the Registration Department.
(iii) Above 10,000 sq. meters	10% of the area, excluding roads shall be reserved and this space shall be maintained as communal and recreational open space to the satisfaction of the Authority or transferred to the Authority for maintenance. It is obligatory to reserve 10% of the layout area.

20. In para-4 of G.O.Ms.No.743, Housing and Urban Development Department, dated 10.5.1979, the Government directed that all layouts/ subdivisions approved or effected before 5.8.1975 will be exempted from the above requirements without insisting upon Open Space Reservation. It was also further clarified in the same paragraph 4 that no Open Space Reservation Charges need be collected in subdivisions in areas earmarked for residential use in approved layouts provided the minimum prescribed plot extent is maintained. This paragraph 4 of G.O.Ms.No.743, Housing and Urban Development



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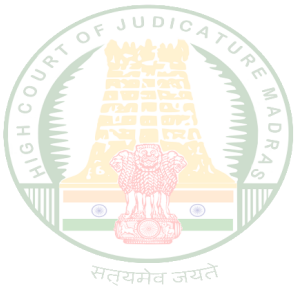


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Department, dated 10.5.1979, may throw light upon the core question that arises for consideration in this case. Therefore, it is extracted as follows:-

"4. The Government also direct that the above modification of the open space reservation rule be given effect to from 5th August 1975 (date of coming into force of Development Control Rules). Consequently, all layouts /subdivisions approved or effected before 5.8.1975 will be exempted from the above requirements without insisting upon open space reservation. The Government also direct that no open space reservation charges need be collected in subdivisions in areas earmarked for residential use in approved layouts provided the minimum prescribed plot extent is maintained."

21. It may be of interest to note that at the time when the First Master Plan was conceived in 1975, the concept of "Group Development" or "Flats", had not gained momentum in the City of Chennai. Therefore, the Development Control Rules did not contain specific provisions to regulate the same. But when developers started promoting flats, the issue was taken up by the Madras Metropolitan Development Authority with the Government, in a letter dated 22.3.1981. On the basis of the said letter of the Member Secretary and the recommendations of the Technical Committee of MMDA and the response of the public to the proposed amendment to the Rules, the Government issued G.O.Ms.No.940, Housing and Urban Development, dated 8.10.1982, approving the Draft Rules for incorporation in the Development Control Rules with certain modifications. They



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were issued by the Government in exercise of the power conferred by Section 32(4) of the Tamil Nadu Town and Country Planning Act, 1971.

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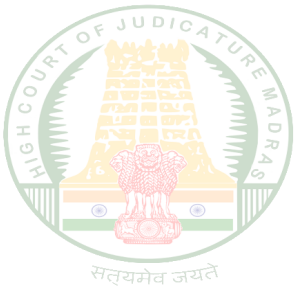
35. Consistently, the Development Control Rules which were in force till 2008 and the Development Regulations which are in force from 2008, have exempted layouts whose total extent of land is upto 3,000 sq. meters, from the obligation to reserve any open space. Similarly, the Rules have consistently given two options, either to hand over 10% of the area excluding roads or to pay the market value of equivalent land, in so far as layouts whose total extent of land is between 3,000 sq. meters and 10,000 sq. meters.

36. But, in respect of layouts whose total extent of land is above 10,000 sq. meters, the Rules have always insisted upon handing over of Open Space Reservation land to the extent of 10% of the total area. In respect of layouts whose total extent is above 10,000 sq. meters, it was made clear by the successive Government Orders that no charges in lieu of 10% of the area can be accepted. This is borne out by--

(1) G.O.Ms.No.743, Housing and Urban Development, dated 10.5.1979,

(2) G.O.Ms.No.940, Housing and Urban Development, dated 8.10.1982,

(3) the Development Control Rules as of September, 2004 (hosted in the official website) and the Table contained therein under Rules 19(a) and 19(b) and



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(4) Regulation 29 and Annexure XX under the Development Regulations of the year 2008.

37. The above discussion containing the entire history of development of the legal obligations imposed upon developers of layouts under the Tamil Nadu Town and Country Planning Act, would show two things, namely, (i) that in respect of layouts where the total extent of land is above 10,000 sq. meters, it is not permissible to collect charges in lieu of 10% of the Open Space Reservation land; and (ii) that in respect of layouts where the total extent of land is between 3,000 sq. meters and 10,000 sq. meters, there was an option either to leave Open Space Reservation land or to pay charges in lieu thereof."

(Emphasis Supplied)

67. The above decision, which has succinctly brought out the manner which led to the conceptualisation of Open Space Reserve, would with great clarity reveal that Open Space Reservation was ingrained in the First Master Plan and also the relevant Development Control Rules on and from 1976, for the Chennai Metropolitan Area when the Government accorded its sanction by issuing G.O. Ms. No.2395 dated 4.12.1976.

68. However, that does not mean that that earmarking of space for public purposes and other amenities for the public was not resorted to prior to the advent of the Master Plan, though it was not codified as Open Space Reserve.



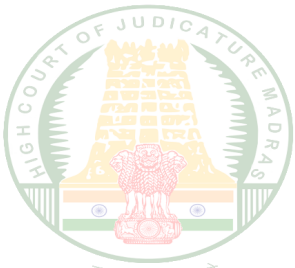
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The concept of Open Space Reserve, as a mandatory condition while forming a layout, was not available, but nevertheless, spaces were earmarked for specific activities in a layout, as could be evident from the plan submitted by the layout promoter.

69. The approval of the layout was in the year 1974, though at the relevant point of time the layout was not within the Chennai Metropolitan Area, nevertheless, there was a clear earmarking of a community hall with other amenities, such as roads, park, owners' area, etc., which were provisioned in the layout. Therefore, even if the Master Plan for the Chennai Metropolitan Area may not have application to the layout, however, the layout did not preclude providing of convenience to the owners/users in the layout, as it has been taken care of by the Town Planning Authority while approving the layout and also earmarked by the layout promoter.

70. This Court, following the decision in *Alagunagar Residents Welfare Association case* has already held that once the land is earmarked in the layout for a particular public purpose, it cannot be used for any other purpose and such being the case, the planning permission, which has been obtained by the layout



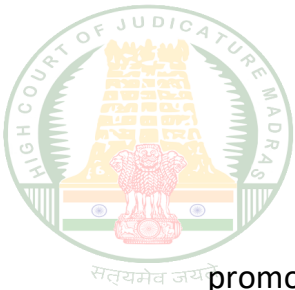
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promoter in the year 1997 for putting up of a *Temple for VGP Ulaga Tamil Sangam* cannot be permitted, as the said conversion is impermissible, when the lands have been earmarked for a community hall.

71. It is not in dispute that the layout has been developed by the layout promoter in which apart from the plots, which were sold, many areas have been earmarked for purposes such as roads, childrens' play area, cafeteria, mediation centre, etc. These common facilities were provided for the enjoyment of all the owners/users in the layout and by earmarking all the common amenities, the layout approval has been obtained.

72. 'Amenities' is defined u/s 2 (2) of Act, 1971 in which the conveniences provided in the layout have also been brought within its fold. The open space reserve such as roads, sewerage facilities, drinking water facilities are under the control of the local authority, which is used by the owners/users in the layout for which space is clearly earmarked. Though the space, which has been earmarked for community hall, at the north-western end of the layout, could also be termed to be a convenience, nevertheless, it has to be ascertained whether such a convenience was provided to the owners/users of the layout by the layout



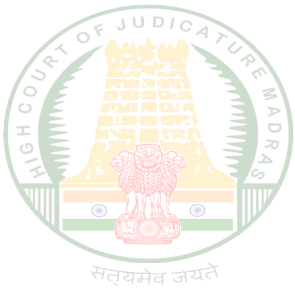
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promoter, by earmarking the said space as an Open Space Reserve while placing the layout plan for approval of the Town Planning Authority, as in the layout, there is a specific area earmarked as 'Owners' Area' to be used for the benefit of the owners/users in the layout.

73. It is the claim of the layout promoter that the right and title to the lands are held by the layout promoter till date and, therefore, the petitioner, by fraudulent means cannot usurp the said right in favour of the Association in the layout to enjoy the area.

74. A layout is a scheme, which details how a specific parcel of land is organized, dividing it into functional zones like residential, commercial, or public utility spaces. It specifies spatial relationships, traffic patterns, infrastructure (such as roads and drainage), and property boundaries, ensuring development is structured, safe, and code-compliant. Further, the layout provides the users/owners in the layout with all the necessary infrastructural facilities, which would be available to them for easy access.

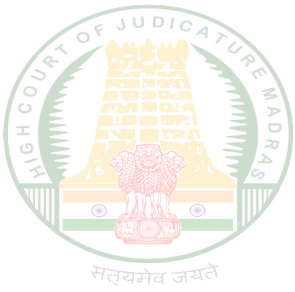


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75. However, a layout is not akin to a gated community. A gated community is a closed circuit community, which is provided with all the necessary infrastructural facilities, which could be enjoyed by the persons residing in the said community, whereas, a layout is an open community and all the infrastructural facilities provided therein would be enjoyable by the residents residing in the layout, though not exclusively, as it would not be under their exclusive control, but would be held by the local authority for the benefit of the public, inclusive of the users/residents in the layout, who would have preferential treatment over the said facilities.

76. The community hall, which is earmarked in the layout though could be termed to be an amenity as defined u/s 2 (2) of Act, 1971, but whether the said space earmarked is for a public purpose or it is held by the layout promoter is the crux of the issue, which requires to be adjudicated by the authority, which alone would be the basis on the entity, which would determine the character and nature of the land. Neither, the layout promoter, nor the official respondents nor the petitioner have placed any substantive materials to show the nature of the said earmarked space and in the absence of the said materials, the said issue cannot be gone into by this Court under its extraordinary jurisdiction.



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77. When a layout is formed, amenities as defined u/s 2 (2) of Act, 1971 are provided in the layout, as provided for under Act, 1971, which alone would form the basis for the Town Planning Authority to grant approval. Specific provisions have been made under Act, 1971 for provision of the amenities, including, childrens' play area, roads, park, etc., which are necessary in a layout, which are to be provided to the users in the said layout. However, not all the amenities provided in the layout are handed over to the local authority, though it would have a semblance of public purpose in it. The amenities, which have a public flavour and are necessary in every layout are to be handed over to the local authority, such as roads, parks, etc., but not all amenities provided and which has a public flavour are handed over to the local authority. Further, as already stated above, a layout is clearly different and distinct from a gated community and one cannot be equated with the other.

78. In the present case, as detailed above, there is no material placed either by the petitioner or by the layout promoter or by the official respondents to determine the nature of the land. In fact, after a passage of about four decades, the petitioner has come before this Court claiming the parcel of land as



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an Open Space Reserve, but without tabling any materials. The layout is anterior in point of time to the First and Second Master Plan concerning Chennai Metropolitan Area and, therefore, the question of requisition/acquisition of land by any of the departments of the Government within the period of three years would not arise and further the demarcation of Open Space Reserve was also not in vogue at the point of time when the layout was formed and approved though there were clear reservation for various amenities as provided for u/s 2 (2) of Act, 1971.

79. On the basis of the discussion made above, when there is no specific material to hold that the land which is earmarked for community hall is to be held by any particular party, viz., the petitioner or the layout promoter, no exclusive right could be claimed either by the petitioner or the layout promoter, unless a clear determination is made by the 2nd respondent with regard to the nature of the land. However, even a cursory perusal of the impugned order passed by the 2nd respondent would reveal that there is no determination as to the nature of the land, which has been earmarked for 'Community Hall', though the 2nd respondent has held that the right and title to the property is with the layout promoter. In fact, it is the submission advanced by the learned Addl.

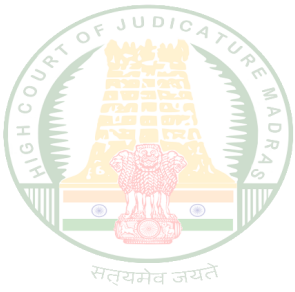


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Advocate General that the land, which is earmarked for 'Community Hall', which is the subject matter of dispute is Open Space Reserve land. However, there is no material to substantiate the said argument and even the order passed by the 2nd respondent is bereft of any particulars with regard to the said aspect and no finding with regard to the said land being an Open Space Reserve has been made in the impugned order passed by the 2nd respondent.

80. Therefore, without determining the question as to whether the space reserved for 'community hall' is an Open Space Reserve land, which is meant for a public purpose, the 2nd respondent ought not to have dwelled on the right and title of the layout promoter to the said lands. Therefore, the right course open to the 2nd respondent is to first determine the nature of land that is earmarked for community hall and if it is a reserved space, then the 2nd respondent is bound to take appropriate steps by directing the authority to get the land transferred in its favour for being utilised for public purpose. If such reservation has not been made, then a clear finding on that aspect has to be recorded, which alone would then form the basis for the layout promoter to hold on to the said land in its name and claim right and title.



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81. The decision in *Krishnaswamy case (supra)* has clearly spelt out the manner in which Open Space Reserve is to be determined and the extent of space to be reserved which would be on the basis of the extent of land in the said layout. Therefore, necessarily, the 2nd respondent is required to apply the Government Orders referred to in the said case to the present case along with all the connected materials to find out the nature of land vis-a-vis the extent of land and determine whether the land is an Open Space Reserve and take appropriate action based on the findings that are arrived at.

82. Even a bare perusal of the impugned order reveals that no application of mind has gone into appreciating the Government Orders, which would form the backbone for arriving at a finding as to the nature of the lands, but merely placing reliance on the report submitted by the Zonal Officer and the Executive Engineer of the Chennai Corporation, a copy of which also has not been supplied to the parties, but was submitted to the 2nd respondent only posterior in point of time to the hearing, the order has come to be passed, which clearly reveals non-application of mind on the part of the 2nd respondent while passing the order and is also a stark violation of principles of natural justice. Necessarily the impugned order passed by the 2nd respondent deserves to be interfered with and the matter



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requires to be remanded to the 2nd respondent, which alone would be the just and proper course to set right the issue in *lis*. ***Issue No.2 is answered accordingly.***

83. Coming to issue No.3, merely on account of the fact that the right and title to the land stands in the name of the layout promoter, the same cannot form the basis for the 2nd respondent to render a finding as to the right and title to the land being with the layout promoter. True it is that for almost four decades the land earmarked for community hall had been held by the layout promoter, but that is no justification to hold that the said rights are legally valid so long as the nature of the earmarked area is not determined. True it is that the petitioner has not taken any action for more than four decades, but that would not give any leverage to the layout promoter to claim right and title over the said lands, without it being decided by the 2nd respondent.

84. Further, it is the specific case of the petitioner that the land, which had been earmarked for community hall, which was used as community hall for a length of time by the layout promoter, had been converted into a hotel and a church, which fact has been confirmed by the Tahsildar, Sholinganallur Taluk,



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who, in his report to the Government Advocate has stated that the said land is used for running a hotel and that a church has been put up. It is evident from the provisions of the District Municipalities Act that for putting up church or any religious activity permission needs to be obtained from the Collector of the concerned District. Neither in the erstwhile Kancheepuram District nor in the Chennai District, such permission seem to have been obtained, as there is no material placed by the layout promoter evidencing the same. Therefore, the activity of church as well as the hotel cannot be carried on in the said land, which has been earmarked for community hall.

85. In the absence of any finding as to whether the said land has been earmarked as an Open Space Reserve, the finding recorded by the 2nd respondent, which has been held to be illegal, the right and title over the said land cannot be claimed by any of the agitating parties, viz., the petitioner or the layout promoter, as the determination of the nature of land by the 2nd respondent would alone be the basis for clothing right and title over either of the persons over the said land. In such view of the matter, ***Issue No.3 is answered by holding that the land shall be maintained as a 'Community Hall' by the layout promoter till such time the 2nd respondent decides on the nature of the***



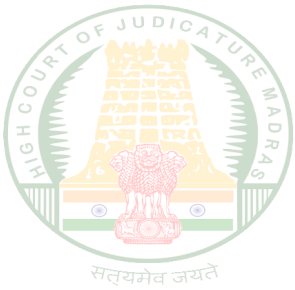
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said land, viz., whether it is an Open Space Reserve or not and the right and title over the said lands would be on the basis of the finding that is rendered by the 2nd respondent.

86. In fine, in view of the discussion above, these writ petitions are disposed of with the following directions :-

- i) *The impugned order passed by the Regional Deputy Commissioner (South) dated 7.6.2017 is set aside and the matter is remanded to the said authority to decide as to whether the said land earmarked for 'Community Hall' is an Open Space Reserve;*
- ii) *The Regional Deputy Commissioner (South) is directed to take up the matter on file and after affording opportunity of hearing to the parties and permitting the parties to file all necessary materials, shall dispose of the same within a period of twelve weeks from the date of receipt of a copy of this order;*
- iii) *Till such time the Regional Deputy Commissioner (South) passes order as aforesaid, the land which is earmarked for community hall in the layout in S. No.15/1C, situate at Injambakkam Village, Tambaram Taluk, Kancheepuram District, forming part of approved layout bearing Ref. No.LDPM/DDTP No.151/1974 approved by the Town and*



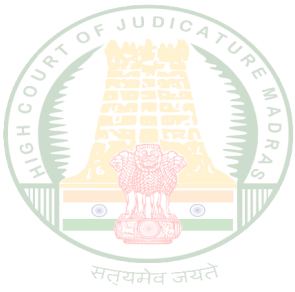
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Country Planning Authority shall not be used for any other purpose other than 'Community Hall';

- iv) The District Revenue Officer, Greater Chennai Corporation, shall issue notice to the hotel, viz., Vasantha Bhavan, which is operating in the said lands, within a period of four weeks from the date of receipt of a copy of this order for vacating the premises and ensure that the said lands are put to use as community hall;*
- v) Till such time order is passed by the Regional Deputy Commissioner (South), the 1st respondent, viz., Commissioner, Chennai Corporation shall take appropriate steps to maintain the building as a community hall for being used by the general public and for the owners/users/residents in the layout, who shall be given preferential treatment in respect of allotment over the general public and amounts realised in this regard shall be kept in a separate account, which will be realisable by the entity in whose favour order is passed by the Regional Deputy Commissioner (South);*
- vi) Subject to the outcome of the proceedings before the Regional Deputy Commissioner (South), the community hall shall be maintained in terms with the order that shall be passed;*
- vii) The Commissioner, Greater Chennai Corporation is further directed to take necessary action and demolish the church, which has been illegally put up in the aforesaid*



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lands by the layout promoter within a period of two weeks from the date of receipt of a copy of this order and the same shall be informed to the District Collector, Chennai District;

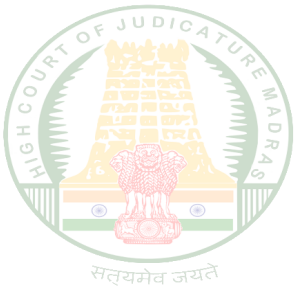
viii) All the aforesaid exercises shall be completed and directions complied with within a period of twelve weeks from the date of receipt of a copy of this order.

Consequently connected miscellaneous petitions are closed. There shall be no order as to costs.

31.07.2026

Index : Yes / No

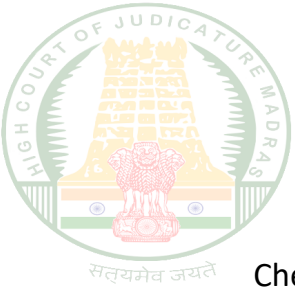
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To

1. The Commissioner
Greater Corporation of Chennai
Ripon Building, Chennai 600 003.
2. The Regional Deputy Commissioner (South)
Corporation of Chennai
No.115, Dr.Muthulakshmi Salai
Adyar, Chennai 600 020.
3. District Revenue Officer
Land & Estate Department
Corporation of Chennai
Ripon Building, Chennai 600 003.
4. The Zonal Officer
Zone No.15, Greater Chennai Corporation
Sholinganallur, Chennai 600 119.
5. The Member Secretary
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road, Egmore
Chennai 600 008.
6. Directorate of Town & Country Planning
807, Anna Salai, Chennai 600 002.
7. The Tahsildar
Sholinganallur Taluk Office
No.3, 1st Street, Kumaran Nagar
Rajiv Gandhi Salai
Sholinganallur, Chennai 600 119.
8. The Town Panchayat Office
Ezhil Nagar, Sholinganallur

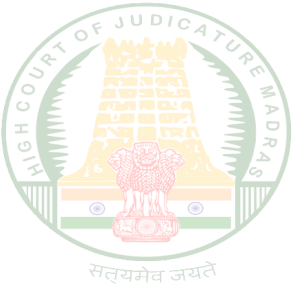


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M.DHANDAPANI, J.

GLN

**PRE-DELIVERY ORDER IN
W.P. NOS.10369 & 27479 OF 2017**

**Pronounced on
31.07.2026**