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W.P. No.9003 of 2023 & Cont.P. No.145 of 2023 &
W.M.P. No.9119 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 29.08.2023

DELIVERED ON : 05.09.2023

CORAM

THE HONOURABLE **Mr.JUSTICE S.VAIDYANATHAN**
AND
THE HONOURABLE **Mrs.JUSTICE R.HEMALATHA**

W.P. No.9003 of 2023 & Cont.P. No.145 of 2023
&
W.M.P. No.9119 of 2023

W.P. No.9003 of 2023

M/s. Daebu Automotive Seats India Pvt. Ltd.
Rep by its MD - Mr. Hong Yeol Yoon,
Regd, Office No.492, Mannur Village,
Valarpuram Post
Sriperumbudur Taluk 602 105,
Kancheepuram District.

... Petitioner

Vs.

1. Additional Chief Secretary,
Commissioner of Land Administration,
Ezhilagam, Chennai 600 005.
2. Government of Tamilnadu,
Rep. by its Secretary to Government,
Department of Revenue, Secretariat, Chennai 600 009.



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3. The Additional Chief Secretary,
Industries Department,
Government of Tamil Nadu,
Secretariat, Chennai 600 009.
4. The District Collector,
Kancheepuram District,
Kancheepuram 631 501.
5. The Revenue Divisional Officer,
Kancheepuram District,
Collectorate Campus, Kancheepuram 631 501.
6. The Tahsildar,
Sriperumbudur Taluk,
Sriperumbudur 602 105.
Kancheepuram District.
7. The Assistant Director,
(Village Panchayats),
Office of the Asst. Director,
Kancheepuram District.
8. The Block Development Officer,
(Village Panchayats)
Sriperumbudur 602 105.
Kancheepuram District.
9. The Assistant Engineer,
Water Resource Department/PWD,
Lower Palar Basin Division,
Kancheepuram.
10. The President,
No.53, Valarpuram Village Panchayat,



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Sriperumbudur Panchayat Union,
Kancheepuram District.

11. Raja @ Rajareegam Pulichow

... Respondents

Cont.P. No.145 of 2023

Raja @ Rajareegam Pulichow

... Petitioner

Vs.

1. Mr. Jayagandhan,
The Tahsildar,
Office of Tahsildar,
Sriperumputhur 602 105,
Kancheepuram District.

2. Mrs. Bhavani,
The Block Development Officer,
Office of B.D.O., (Village Panchayat),
Sriperumputhur 602 105,
Kanchipuram District.

3. Mr. Arumugam,
The Village Administrative Officer,
Office of V.A.O.
Valarpuram Village 602 105,
Sriperumputhur Taluk, Kancheepuram District

...Respondents

Prayer in W.P. No.9003 of 2023: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, or any other appropriate Writ calling for the records with regard to the impugned proceedings in F2/12406/2018 dated 05.11.2019 issued by the 1st respondent and quash the same and direct the 1st respondent to pass appropriate orders.



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Prayer in Cont.P. No.145 of 2023: Petition filed under Section 11 of Contempt of Court Act to punish the respondents herein for willfully, deliberately and wantonly disobeying the order of this Court dated 03.12.2020 made in W.P. No.17047 of 2020.

in W.P. No.9003 of 2003:

For petitioner : Mr. R. Prabhakaran
For R1 to R6 : Mr.A.Selvendran
Special Government Pleader
For R11 : Mr. R. Sasikumar

in Cont.P. No.145 of 2023

For petitioner : Mr. R. Sasikumar
For respondents : Mr.A.Selvendran
Special Government Pleader

COMMON ORDER

R.HEMALATHA, J.

Both the W.P. No.9003 of 2023 filed by the writ petitioner M/s. Daebu Automotive Seats India Pvt. Ltd., represented by its Managing Director Mr.Hong Yeol Yoon against 11 respondents and the Contempt Petition No.145/2023 filed by the 11th respondent (in the Writ Petition) are taken together for disposal.



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2. The petitioner Company M/s. Daebu Automotive Seats India Pvt. Ltd., is a Private Limited Company incorporated in the year 2006 and having its registered office and factory in Mannur Village, Valarpuram Post, Sriperumbudur Taluk of Kancheepuram District. The petitioner Company which is spread over 4.83 acres area in the village, is into manufacturing of accessories, tools and equipments to be supplied to car manufacturers and employing about 1000 persons.

2.1. In order to expand its capacity for a second plant, the Company had requested the Government of Tamilnadu for acquiring on lease an extent of 0.41 hectares out of 0.51 hectares land adjacent to their existing factory classified as 'Odai Poramboke' in S.No.533 of Valarpuram Village, Sriperumbudur Taluk, Kancheepuram District. The petitioner had offered a patta land belonging to the Company admeasuring 0.36 hectares in S.No.467/1 and 0.12 hectares in S.No.468 of the same village in exchange of the land requested on lease from the Government.



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2.2. According to the petitioner the Tahsildar of Sriperumbudur had issued a report dated 30.06.2009 itself mentioning 'no-objection', followed by a special resolution dated 18.07.2009 giving consent for the lease of the land and fixing a sum of Rs.6.91 lakhs per year as the lease amount. This amount was paid by the Company vide a Demand Draft (DD) dated 26.07.2010 but the DD was returned back to the Company without assigning any reason. Subsequently, a representation dated 28.10.2013 was given to the Secretary, Land and Revenue Department, Government of Tamil Nadu with the same request. This representation was studied by various authorities, viz., Tahsildar, Sriperumbudur (6th respondent) and the Revenue Divisional Officer, Kancheepuram (5th respondent) for the feasibility and opinion on the proposal. The Revenue Inspector, Thandalam, submitted a report to the District Collector (4th respondent), Kancheepuram on 24.07.2014, followed by the Tahsildar, Sriperumbudur on 28.10.2014 and Revenue Divisional Officer, Kancheepuram on 19.12.2014. These reports indicated the need for a technical study by the Water Resource Department.



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2.3. In the meanwhile the 11th respondent in W.P. No.9003/2023 one Raja @ Rajareegam Pulichow filed a Writ Petition in 17047/2020 alleging encroachment of water canal by the said Company and thereby causing immense damage to the canal and also depriving the village of irrigation source and drinking water source, in which an order dated 03.12.2020 was passed by this Court. The order reads as,

"Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, either in his representation or in this writ petition, directs respondents 3 to 5 to put the 6 th respondent on notice and with the aid of the relevant revenue records, to cause survey and inspection of the land in S.NO.533 of Valarpuram Village, Sriperumputhur Taluk, Kanchipuram District, and the result of the inspection reveals any infraction of law, Rules and Regulations, shall take immediate, necessary and appropriate



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action in accordance with law, by also adhering to the principles of natural justice, by putting the encroachers on notice, which may include the 6th respondent also and complete the said exercise within a period of twelve weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner, 6th respondent as well as any other person/s concerned."

2.4 According to the petitioner Company in the present W.P.No.9003/2023, this person, the 11th respondent, Raja @ Rajareegam Pulichow, tried to extort money from the Company and when the same was resisted, came up with W.P. No.17047/2020 wherein he had alleged encroachment of waterways by the Company. Neither proper notice nor an opportunity was afforded to the Company to present its case in the Writ Petition and in the result in compliance to the order in W.P. No.17047/2020, the Village Panchayat had issued a notice dated 10.03.2022 asking the petitioner to remove the encroachment brushing aside the fact that it was the same village Panchayat which had passed a resolution approving the



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exchange of the land parcel. The Company aggrieved over this notice filed a Writ Petition in W.P. No.8708/2022 during the course of which it was informed to the Company that its proposal for exchange of land parcel in lieu of the lease of the requested land (waterway) was not approved by the Additional Chief Secretary of Land Administration, Government of Tamil Nadu (1st respondent) way back in 2019 itself vide letter dated 05.11.2019 addressed to the District Collector, Kancheepuram, which is the impugned order in the present W.P. No.9003/2023. Similarly, the contempt petition was filed by the 11th respondent Raja @ Rajareegam Pulichow in Contempt Petition No. 145/2023 in W.P. No.17047/2020 against the government authorities for wilfully disobeying the orders of this Court in the said Writ Petition. Both these are interconnected.

3. Mr. R. Prabhakaran, learned counsel for the Writ Petitioner in W.P.No.9003 of 2023 would contend that the land sought for by them was not 'odai poromboke'. It was also argued that it was not a water channel but only a small pond of water which gets filled during rainy season. Further contention of the learned counsel for the petitioner was that even as early as



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2009, the local village panchayat expressed its 'no objection' to the leasing out of the 'odai poromboke' and that lease amount also was intimated to the petitioner who in turn paid it through a DD drawn on HDFC Bank. All the local authorities who are in the field had found the reasonableness in the proposal. It was also argued that the petitioner Company in order to justify their demand also proposed an offer of alternative patta land they were owning nearby. It was their contention that the particular 'odai poromboke' land parcel was adjacent to the present factory premises and was ideally suited for expansion of the factory. Another contention was that the Assistant Engineer of Water Resources Department, Kancheepuram, had earlier approved the technical feasibility of the proposal and since they were not heard in W.P. No.17047/2020 they could not highlight the same. It was also contended that even though the proposal did not find favour with the Chief Engineer, Water Resources Organisation (WRO) in 2019 itself much before the filing of the W.P.17047/2020, this decision was not intimated to the Company by the District Collector, Kancheepuram (4th respondent) and that the same was made known to the petitioner Company only when W.P. No.8708 of 2022 was filed by them. Therefore, it was



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argued that they (the petitioner Company) are entitled to a favourable response for this proposal of exchange of land.

4. Per contra Mr.A.Selvendran, learned Special Government Pleader contended that it is well settled by the Apex Court that no waterways can be disturbed and that their natural flow of water should be left undisturbed and unencroached. It was also contended by him that such deviations in land use especially when natural waterways are disturbed would lead to disastrous consequences.

5. It is true that the water resource which is very vital for the prosperity of any village should not be altered in any manner. In the instant case, the petitioner Company citing the reason of expansion of its factory wanted to encroach upon the 'odai poromboke' land which is the natural water canal. The water canal not only irrigates the neighbouring villages but also naturally flows and merges with the Sembarambakkam lake which is the main drinking water source for the entire Chennai city. This land classified as 'Odai Poromboke' also has the nature of absorbing water during



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rainy season and thereby preventing the occurrence of floods. It is crystal clear that this waterway is a natural one and cannot be diverted for the purpose of accommodating any particular establishment which has a personal agenda of expansion. Though it was also argued by the learned counsel for the petitioner Company that the additional factory and the expanded area would generate employment opportunities for the neighbouring villages thereby uplifting their economic status, the larger interest of the society and the future consequences of such an act have to be considered before making any decision regarding such an offer. In the impugned communication by the Additional Chief Secretary, Land Administration Department, dated 05.11.2019, addressed to the District Collector, Kancheepuram, the matter was clearly settled based on the report of the Chief Engineer, Water Resources Organisation, Chennai Region. The relevant portion reads as,

"The Government poramboke Odai should not be disturbed at any cost as per the natural course characteristic should not be deviated and assigning land transfer, land alienation, land



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lease on rental basis etc., are ban by the Government as per the various sort orders issued. Besides, by citing various court judgments, the Chief, Engineer, WRO, Chennai Region has reported that the issuing of technical opinion along with NOC of their Department for the above subject is not technically feasible."

In such circumstances, we do not find any infirmity in the impugned order and we also feel that the petitioner Company has not approached this court with clean hands. The Hon'ble Supreme Court in the case of ***Sarvepalli Ramaiah (Died) vs. The District Collector*** [Civil Appeal No.7461 of 2009] decided on 14.03.2019, has clearly elicited that if an area is found to be a Water Body (even dried up or fallen into disuse) as per Revenue records, the Government should protect it and the area should not be alienated at any cost. In the result, the Writ Petition is dismissed. Consequently connected writ miscellaneous petition is closed.



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6. As regards the Contempt Petition filed by the 11th respondent in W.P. No.9003/2023 (petitioner in W.P. No.17047/2020) there is no element of wilful disobedience of court order as the court order was only a general direction to the concerned authorities to cause survey and inspect and initiate appropriate action in accordance with law within a period of 12 weeks. It is easily found that the inspection and the survey of the odai poromboke was already done by the concerned authorities based on the request of the petitioner Company and the final decision was also arrived at by the concerned authorities. In view of the above, the Contempt Petition is closed.

(S.V.N.,J.) (R.H.,J.)

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Index : Yes / No

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Pre-delivery Common Order in
W.P. No.9003 of 2023 & Cont.P. No.145 of 2023
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