

IN THE HIGH COURT OF JUDICATURE AT MADRAS

CAV ON : 09/09/2015

DATED : 18/12/2015

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.21845 of 2015

and

M.P.No.1 of 2015

M.Nanjappa Chettiar Memorial Trust
Rep. by its Managing Trustee,
N.Marudachalam, Avinashi Road,
Muthalipalayam Pirivu, Arasur Post,
Coimbatore District - 641 407. ... Petitioner

vs.

- 1.The Director of Land Reforms,
Land Reforms Department,
Chepauk, Chennai-600 005.
- 2.The Boodhan Yagna Board,
Rep. by its Secretary / Special Officer,
Land Reforms Department, Chepauk,
Chennai-600 005.
- 3.The District Collector,
Coimbatore District,
Coimbatore.
- 4.The Secretary to Government,
Revenue Department,
Government of Tamil Nadu,
Fort St. George,
Chennai-600 009. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for a Writ of Certiorarified Mandamus to call for the records relating to the proceedings of the first respondent in Na.Ka.No.K1/302/2010 (Nee Seer) dated 06.03.2015 and quash the order passed therein and consequently direct the respondents to grant permission to exchange the already donated land comprised in

S.No.152/1 of an extent of 2.75 acres situated at Neelambur Village, Sulur Taluk, Coimbatore District in lieu of the alternate lands offered.

For Petitioner : Mr.Yogesh Kannadasan

For Respondents : Mr.M.S.Ramesh
Additional Government Pleader

O R D E R

The petitioner has submitted that the M.Nanjappa Chettiar Memorial Trust is running a School under the name and style of M.Nanjappa Chettiar Matri School, Arasur, Coimbatore District. The (Late) M.Nanjappa Chettiar is the petitioner's father. The petitioner has further submitted that the dry lands to an extent of 2.75 acres (1.11.5 hectares) situated in S.No.152/1, Neelambur Village, Palladam Taluk, Coimbatore District is his ancestral land. Prior to the enactment of the Tamil Nadu Boodhan Yagna Act (XV of 1958), hereinafter called as the "Act", when (Late) Shri Acharya Vinobha Bhave visited Coimbatore District, his father (Late) Nanjappa Chettiar donated the said land for Bhoodhan Yagna. The donation was published in the Coimbatore District and State Government Gazette. The donation of the land was confirmed to the Bhoodan Board in accordance with Section 17(4) of the Act. The declaration about the donation of the land to the Bhoodan Yagna Board along with the other lands is registered in the office of the Sub-Registrar, Sulur on 23.03.1965 as Document No.372/1965. Thereafter, in accordance with Section 17(b) of the Tamil Nadu Boodhan Yagna Act, the land became vested with the second respondent herein. The petitioner has further submitted that though the ownership of the land changed in the name of the Bhoodhan Yagna Board, the land continued to be in possession of Smt.Nachiamma, his mother and also the wife of Donor (Late) Nanjappa Chettiar. Mr.Nanjappa Chettiar died on 22.06.1984. In order to perpetuate the memory of (Late) Nanjappa Chettiar, he, his wife Smt.M.Rathinam; his brother M.N.Sadasivam, his wife Smt.Rukmani; M.N.Thirunavukarasu, his wife Smt.T.Rathinam; and K.R.Palaniappa Chettiar, constituted a Trust on 22.08.1986. The Trust is known as "M.Nanjappa Chettiar Memorial Trust". The object of the Trust is among other things, to establish, maintain and administer educational institutions. The Trust Deed is registered as Document No.23/86 on the file of Sub Registrar, Sulur. The petitioner has further submitted that the Trust is a public charitable Trust started with the aim of doing educational and charitable works.

2. The petitioner has further submitted that they wanted to construct a matriculation School in Neelambur Village to serve

the needs of the local people and also the school going children of the nearby village in their Taluk. The land at S.No.152/1, abutting the Coimbatore-Avinashi Main Road, which was donated by his father (Late) Nanjappa Chettiar was found suitable for raising building for the educational institution. Therefore, he wrote letters dated 10.10.1986 and 10.11.1989 to the second respondent Boodhan Yagna Board to distribute the land to the Trust for constructing the school buildings. Though the land was registered in the year 1965 itself in the name of the second respondent, they have been paying the land tax every year to the State Government. They are also in continuous possession of the land. However, before starting the school building construction, they requested the Boodhan Yagna Board to distribute the land to the Trust for public and charitable purposes. Their mother Nachiammal also sent her statement to the second respondent stating as to how the land continued in her possession and expressed her 'No Objection' for distributing the land to M.Nanjappa Chettiar Memorial Trust. The petitioner has further submitted that since there was a positive response from the Bhoodan Yagna Board, they prepared the drawings for the school, laid the foundation and also dug a bore well on the said land in the year 1990. The petitioner expected a donation of Rs.1 lakh to the Trust per annum from their ginning factory situated at Trisur.

3. The petitioner has further submitted that Yagna Board considered their request for the distribution of the land to the Trust. The second respondent Boodhan Yagna Board represented by its Chairman sent a letter dated 03.05.1990 to the Government in which the Board Chairman stated that there is no provision in the Boodhan Act for exchanging the donated land for other lands. He has admitted that the Trust has been formed for the uplift of the people in the said area and that there was no objection for the distribution of the land to the Trust concerned. Therefore, the Chairman of Boodhan Yagna Board requested the permission of the State Government so that the land may be distributed to the Trust for the educational purpose. The petitioner has further submitted that upon the letter sent by the Chairman of the Tamil Nadu Boodhan Yagna Board, the Government called for remarks from the Collector, Coimbatore District for distribution of the land to M.Nanjappa Chettiar Memorial Trust. The Tahsildar, Palladam Taluk examined the request of the trust and submitted his report dated 17.09.1990 in which he stated that the building activities on the land was in progress, and the Trust school would benefit the children around the area and that the land may be transferred to M.Nanjappa Chettiar Memorial Trust. The Collector, Coimbatore District, submitted a detailed report to the Government by his proceedings dated 04.10.1990. The Collector submitted that the concerned land has not been distributed to landless poor, that the donor himself offered alternate land which was not accepted, that the building activities on the land has been stopped and that the Board could distribute the land to M.Nanjappa

Chettiar Memorial Trust for which there was no objection from the Revenue Department.

4. The petitioner has further submitted that he also made the representation dated 10.10.1990 to the first respondent, requesting the Government to distribute the land to the Trust since the land was required only for public purpose. The petitioner has further submitted that the first respondent sent a letter dated 18.03.1991 to him stating that the Boodhan Board has taken a decision in principle to allocate the land and that there is no suitable amendment in the Tamil Nadu Boodhan Yagna Act. The first respondent further stated in the said letter that the request of the Trust for the distribution of Boodhan land would be considered after an amendment is made in the Act. The petitioner has further submitted that by the said letter of Government and the earlier proceedings, the Trust was led to believe that the Government was inclined to allot the land to the public Trust in principle, but the same would be carried out after the amendment is effected in the Act. The land was also found not fit for cultivation since already buildings have come up in the adjoining lands. The petitioner has further submitted that after the letter of the first respondent, the Trust was led to believe that the Government would definitely allot the land to the Trust and that it was only a matter of time factor. In the meanwhile, the Trust also obtained sanction of the Panchayat Union for proceeding with the construction in Ref.No.Mu.Mu.4663/93. dated 01.09.1993.

5. The petitioner has further submitted that they were sending the representations frequently to the Government and also to the Boodhan Yagna Board for the distribution of the land to M.Nanjappa Chettiar Memorial Trust. They also obtained electricity connection in 1991 to the school buildings and the borewell from the Tamil Nadu Electricity Board, Arasur, Coimbatore District. Subsequent to the letter dated 18.03.1991 sent by the Government, they spent nearly about Rs.20 lakhs prior to 1999 and made progress in construction of school buildings. Students were admitted upto 5th standard in 1991 and they also applied for recognition of the school. In 1991, about 135 students were enrolled in the school and about 10 teachers worked in the school. The petitioner has further submitted that even in January 1992, he sent a representation to the Government requesting the Government to issue patta for the land in the name of Nanjappa Chettiar Memorial Trust. The petitioner has further submitted that the Director of School Education, Chennai-6 granted provisional permission for opening of the matriculation school with standard 1 to 6 by his proceedings dated 08.07.1992. They also deposited the cash endowment of Rs.1 lakh required for recognition. The petitioner explained in his letter dated 23.06.1993 to the respondent about the continued occupation of the land by them and the buildings erected by them at the cost of nearly about Rs.20

lakhs. The petitioner made further submission that since the Trust has invested a huge sum of Rs.20 lakhs and erected RCC modern buildings and also purchased school buses and developed other infrastructure for the school, the grant of patta and the title in the name of Nanjappa Chettiar Memorial Trust could be favorably considered by the Government. The Trust has been running the School for the benefit of the public in the locality and the educational institution is of a vital importance to all the villages situated around the school. Even on 10.10.1996, the petitioner sent representation to the second respondent requesting the Bhoodan Yagna Board to distribute the land to the Trust.

6. The petitioner has further submitted that in spite of their several representations for a long period, the Bhoodan Yagna Board maintained conspicuous silence. After a long time, the Bhoodan Yagna Board passed the order dated 25.02.1998, wherein the second respondent has stated that the Tamil Nadu Bhoodan Yagna Act 1958, does not contemplate distribution of land for the school on acceptance of another alternative land instead of donated land. Therefore, the Trust was directed to remove the building said to be encroached within a period of three months failing which the Bhoodan Yagna Board threatened to take steps in accordance with the law. The petitioner has further submitted that after receipt of the impugned order, he has submitted by explanation dated 04.08.1998, in which, he pointed out the letter dated 03.05.1990 written by the Chairman Bhoodan Yagna Board recommending the distribution of the land to the Trust. The petitioner also represented that from the date of the donation, the land was not distributed to others. It continued to be in their possession and enjoyment. The petitioner has also further stated that since they have been imparting free education without collecting any fees to the rural children hailing from the nearby by places and that the possession and enjoyment continues with them and further since they have been paying the land tax, they may be allotted the land. In the meanwhile, the recognition upto 10th standard was granted by the proceedings of the Director of the School Education dated 04.02.1998. The petitioner has further submitted that the Director of the School Education, Chennai-6, by his proceedings dated 24.08.1998 has also sanctioned upgradation of matriculation school, as Higher Secondary School with standards 11th and 12th.

7. The petitioner has further submitted that the petitioner has challenged the order dated 25.02.1998 in W.P.No.20296 of 1999 which was dismissed by the learned Single Judge against which W.A.No.21 of 2000 was filed. The Division Bench, by judgment dated 05.09.2000, disposed of the same with the observation that running the school is for community purpose and while affirming the order of the learned Single Judge, recommended that the land could be made over to the local Panchayat, with a condition that the land

shall be used by the Trust only for school purpose strictly and for no other purpose. With the above recommendation, the appeal was disposed of.

8. The petitioner has further submitted that in the meanwhile, in the very same year, the Act was amended by Tamil Nadu Act 37/2000 whereby Section 17A was inserted which enables the authorities to grant permission to exchange the donated land. In view of the change of circumstances, the petitioner has once again approached the authorities to offer alternative land with a view to retain the land which was already donated to the Board, so that, the education could be imparted to the children without any hindrance. The petitioner has further submitted that the second respondent through its letter dated 17.04.2010, informed the petitioner that the petitioner can either provide alternate land or to pay double the market value of the land to retain the land donated to the Board. In pursuance of the said letter, the petitioner, as the legal-heir of the original donor, has offered the alternate land measuring an extent of 3.61 acres comprised in S.Nos.265, 494/2 and 495/1, situated at Pilathur and Sathuvarpatti Villages, Veda sandur Taluk, Dindigul District. On receipt of the said representation, the first respondent by letter dated 19.08.2011 has requested the District Collectors of Dindigul and Coimbatore Districts to ascertain and submit a report with regard to the guideline value of the alternate land at Dindigul District and the land which was donated by his father at Coimbatore District. The District Collectors have furnished the guideline value of both the lands. On receipt of the report from the respective Collectors, the first respondent by its order dated 28.01.2013 rejected the request of the petitioner on the ground that the value of the land which was offered as the alternate land was not equivalent to the land which was donated by his father.

9. Thereafter, the petitioner has offered additional land measuring an extent of 7.50 cents at Sular Taluk itself adjoining to the donated land. The authorities have informed him that still the value is not on par with the donated land. Hence, the petitioner has offered a larger extent of land viz., 17.50 cents in the very same survey number, which is adjacent to the land donated to the Board and the value of the said land is higher than the land which was donated by his father to the Board. However, the first respondent, by impugned order dated 06.03.2015, erroneously rejected the petitioner's request on the ground that while considering the market value of both the lands, the value of the donated land is higher than the value of the alternate land. The authorities got themselves confused with the guideline value and market value even though, the Act clearly contemplates that the guideline value of the alternative land alone has to be taken into consideration and not the market value. In fact, when a report was called for by the

Tahsildar, Sulur, from the Sub-Registrar, Sulur, who in turn through his letter dated 04.07.2013 informed the guideline value of both the lands, and not the market value. By considering the guideline value of both the lands, the comparative figures are given as hereunder:-

Sl. No.	Description	Survey No.	Area	Total value in Rs.
1.	Land donated to the 2.41 acre Boodhan Yagna Board (Sulur Taluk) Guideline value : Rs.100/sq.ft.		152/1	1,04,97,960
2.	Alternate land at Coimbatore 17.50 cents Guideline value : Rs.1400/sq.ft.	122/1 (Sulur Taluk)		1,06,72,200
3.	Alternate land at 1.29 acre Dindigul Guideline value : Rs.1,50,000/- acre		265	1,93,500
4.	Alternate land at 2.32 acres Dindigul Guideline value : Rs.1,00,000/- acre		494/2 & 495/1	2,32,000
Alternate land offered : Total: 3.78 1/2 acres				1,10,97,700

The petitioner has further submitted that a perusal of the above amply demonstrates that even though, the petitioner offered more valuable lands, that is to say that Rs.1,10,97,700/- which is value of the alternate land offered by him as against Rs.1,04,97,960/-, the value of the donated land, and the extent of land is also more, the first respondent, in a casual manner, rejected his request in the impugned order dated 06.03.2015. It is pertinent to note that even the one item of the land alone which is situated in Sulur Taluk itself in S.Nos.122/1, which is adjoining to the donated land is more valuable than the land which was in possession of the petitioner. The first respondent failed to see that not only the value of the land but also the extent of the alternate land offered by him is more than the land which was donated by his father to the Boodhan Board. Hence, the petitioner entreats the Court to allow the above writ petition.

10. The learned counsel appearing for the petitioner has submitted that the petitioner's father Nanjappa Chettiar had donated the subject lands, to an extent of 2.75 Acres, in Survey No.152/1 of Neelambur Village, Palladam Taluk, to Boodhan Yagna movement. Even after donating the said lands, the legal heirs of the donor are still in possession and enjoyment of the lands without any third party's interference including the respondents herein. The legal

heirs of the donor have established a Trust, namely, M.Nanjappa Chettiar memorial Trust, with a view to provide education to the downtrodden people in the local area. The petitioner made a request to the second respondent to distribute the said lands to the Trust. The same was accepted by them. The concerned Tahsildar had also recommended the same to the District Collector / third respondent herein, who in turn made a recommendation to the Government to the effect that the subject lands can be distributed to the petitioner. But, the petitioner's request was rejected subsequently. The same was challenged before this Court and this Court had recommended that the said lands can be made over to the local Panchayat with a condition that the same can be used by the Trust, since the School has been established for the welfare of the general public. The second respondent had also granted permission through his letter, dated 17.04.2010, stating that the said lands can be distributed with certain conditions.

11. The learned counsel has further submitted that the Government informed the second respondent, vide letter, dated 27.05.2011, that the lands can be distributed to the petitioner after receiving lands of equivalent value. Accordingly, the petitioner had offered alternative lands at Dindigul, but the first respondent had rejected the offer made by the petitioner on the ground that the value of the alternative lands is not of equivalent value of the donated lands. Therefore, the petitioner again had offered additional lands situated at and adjoining to the donated lands, which are more than equivalent value of the donated lands. However, the first respondent had rejected the same.

12. Further, the learned counsel has submitted that the value of the donated land is Rs.1,04,97,960/-, but the value of the alternative lands situated at Coimbatore and Dindigul is Rs.1,10,97,700/-, which is higher than the value of the donated lands. The extent of the alternative lands is also more than the extent of the donated lands. Hence, the learned counsel has prayed for direction to the respondents to accept the alternative lands offered by the petitioner.

13. The learned Additional Government Pleader appearing for the respondents has submitted that the District Collector, who is the competent authority, had submitted a report stating that the value of the alternative lands offered by the petitioner is not more than the value of the donated lands. Further, the value of the lands has to be considered on the basis of the market value. Based on the report submitted by the District Collector, the impugned order has been passed rejecting the petitioner's offer. Further, the first respondent had given an option to the petitioner to offer alternative lands equivalent to the donated lands on basis of the

market value and therefore, the petitioner's remedy is still available before the respondents. Hence, for all the reasons, the learned Additional Government Pleader has prayed for dismissal of the writ petition.

14. On considering the facts and circumstances of the case, arguments advanced by the learned counsel on either side and on perusing the typed set of papers, this Court is of the view that the first respondent has not totally rejected the offer made by the petitioner. The first respondent has also given an option to the petitioner to give alternative lands equivalent to the donated lands, on the basis of market value. Since the request of the petitioner is under process, any mandatory direction is not required to the respondents. In such circumstances, the writ petition does not generate sufficient force to allow it and the same is liable to be dismissed.

15. In the result, the writ petition fails and it is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CCC)

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Sub Asst. Registrar

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To

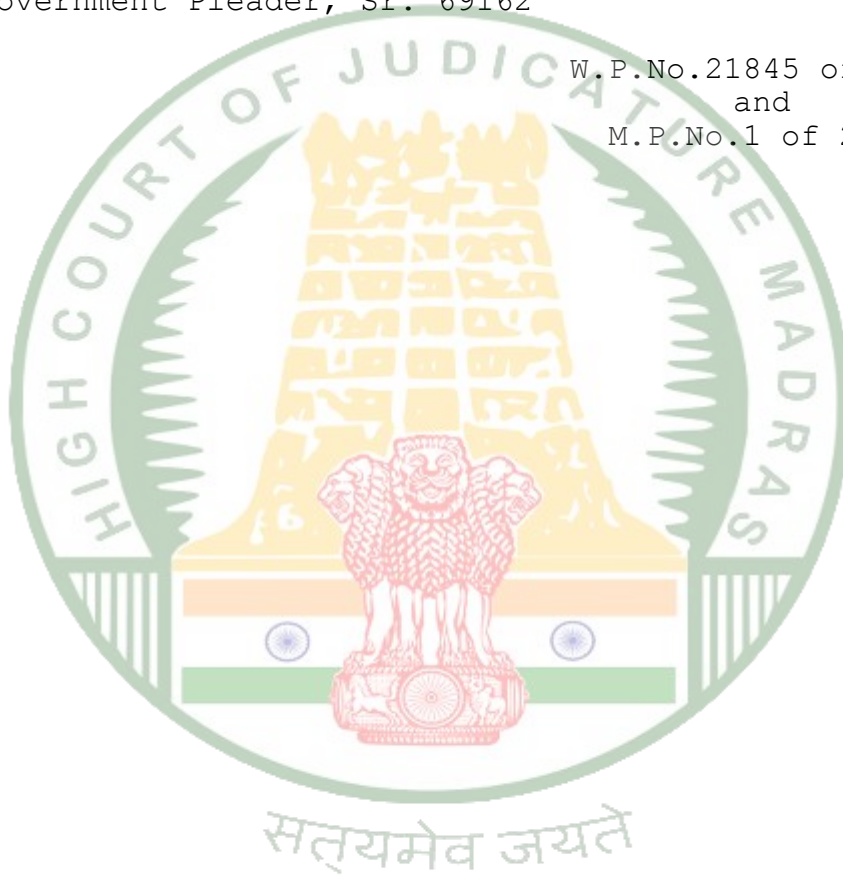
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1 cc to Government Pleader, Sr. 69162

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