

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2015

CORAM

THE HONOURABLE Mr. JUSTICE T.S. SIVAGNANAM

W.P.No.24139 of 2010

M/s.Umra Kavar Educational Trust,
rep. by its Trustee S.D.Manohar Kumar,
Administrative Office
No.104, Hospital Road,
Madurantakkam-603 306,
Kancheepuram District. Petitioner

vs.

- 1.Government of Tamil Nadu,
rep. by its Secretary,
Revenue Department,
Secretariat, Chennai.
- 2.The District Collector,
Kanchipuram District,
Kanchipuram.
- 3.The Regional Joint Director,
Animal Husbandry,
Kancheepuram.
- 4.The Tahsildar,
Madurantakkam Taluk,
Madurantakkam,
Kanchipuram District. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue writ of certiorarified mandamus calling for the records of the 3rd respondent in its impugned order dated 2.10.2009 in reference No.Na.Ka.7249/E/08 rejecting the petitioners' exchange offer made through their representation dated 18.10.2007 to the 2nd respondent and quash the same by directing the 2nd respondent to consider and pass appropriate orders on the petitioners' representation dated 18.10.2007.

For Petitioner : Mr.N.Nagu Sah

For Respondents : Mr.V.Jayaprakashnarayanan
Spl. Government Pleader

ORDER

Heard Mr.N.Nagu Sah, learned counsel appearing for the petitioner and Mr.V.Jayaprakashnarayanan, learned Special Government Pleader appearing for the respondents.

2. The petitioner seeks for issuance of writ of certiorarified mandamus to quash the order dated 02.10.2009 passed by the 3rd respondent rejecting the exchange offer of land made through his representation dated 18.10.2007.

3. The petitioner is a Trust and said to be running two Educational Institutions and in order to form a passage to connect the said two Institutions, the petitioner seek for exchange of land, which is classified as "Meikkal poramboke" with the land owned by them. The petitioner would state that the extent required is though 39 cents, they are willing to give 78 cents, which is twice in extent and price.

4. It is seen from the typed set of papers that the petitioner's application was favourably considered and processed. Ultimately, the 3rd respondent by his proceedings dated 8.4.2009, in principle, accepted for exchange of the land and also fixed the cost, which the petitioner has to incur. However, all of a sudden, the impugned order came to be passed by the 3rd respondent stating that the land cannot be exchanged and rejected the request of the petitioner.

5. The petitioner has challenged the impugned order on various grounds, firstly by contending that the 3rd respondent is not the competent authority to reject the proposal given by the petitioner and having accepted the proposal and passed an order on 08.4.2009, the 3rd respondent is estopped from rejecting the proposal. Further, the petitioner pleaded discrimination by relying upon G.O.Ms.No.364, Revenue Department, dated 1.10.2009, wherein in respect of similar requisition, the Government has granted permission, though not in the same village but in the same Taluk. Therefore, the petitioner has stated that the impugned order is illegal.

6. Counter-affidavit has been filed by the 3rd respondent justifying the stand taken in the impugned order contending that the land is required to them for the purpose of raising fodder. In paragraph 11 of the counter-affidavit, the 3rd respondent would admit that the 2nd respondent is only the recommending authority and the Secretary, Animal Husbandry is the competent authority under law to pass orders on the application for exchange. Further, it is averred in the counter-affidavit that in the impugned order it is only a typographical mistake as it has been mentioned as S.No.123/3 instead S.No.111 and that the petitioner is trying to take advantage of the said clerical error.

7. It is seen that earlier there was a proposal made by the 3rd respondent and accepted the proposal and passed an order on 8.4.2009, however, at present, the 3rd respondent appears to take a different stand.

8. In any event, power to accept such exchange does not vest with the 3rd respondent or the 2nd respondent and it is only vest with the Secretary, Animal Husbandry, Government of Tamil Nadu, as stated by the 3rd respondent in their counter-affidavit. Therefore, this Court directs the petitioner to submit a representation to the 2nd respondent, who in turn shall forward the same to the Secretary, Animal Husbandry, Government of Tamil Nadu along with the comments/observations of the 2nd respondent. Hence, this Court is of the view that the 3rd respondent could not have passed the impugned order rejecting the petitioner's claim and the impugned order dated 02.10.2009 passed by the 3rd respondent is liable to be quashed.

9. In the result, the writ petition is allowed and the impugned order dated 02.10.2009 passed by the 3rd respondent is quashed. The petitioner is directed to submit a representation to the 2nd respondent enclosing the copy of documents in support of their claim to the 2nd respondent, within a period of four week from the date of receipt of a copy of this order. On receipt of the said representation, the 2nd respondent is directed to forward the same along with its own observations/comments to the Secretary, Animal Husbandry, Government of Tamil Nadu and it is for the Secretary, Animal Husbandry, Government of Tamil Nadu to consider the matter and pass orders on merits and in accordance with law as expeditiously as possible, after receiving the same from the 2nd respondent. No costs.

सत्यमेव जयते

Sd/-

Asst.Registrar (CS II)

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/true copy/

Sub Asst. Registrar

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To

- 1.The Secretary,
Revenue Department,
Secretariat, Chennai.
- 2.The District Collector,
Kanchipuram District,
Kanchipuram.

- 3.The Regional Joint Director,
Animal Husbandry,
Kancheepuram.
- 4.The Tahsildar,
Madurantakkam Taluk,
Madurantakkam,
Kanchipuram District.

Copy to

The Secretary of the Government of Tamilnadu
Department of Animal Husbandary
Chennai

1 cc to Mr.Varaharajan, Advocate, Sr. 5851
1 cc to Government Pleader, Sr. 5550

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