



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.09.2015

Coram

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.(MD).No.11162 of 2015

Sri Ram nallamani Yadavar
Magalir Higher Secondary School,
Thirupalai, Madurai
Through its Secretary
N.Rajendran

:Petitioner

vs.

1.The Secretary to Government,
Public Works Department,
Secretariat, Chennai.

2.The District Collector,
Madurai District,
Madurai.

3.The Executive Engineer,
PWD, Water Resource Organization,
Periyar - Vaigai Channel Division,
Madurai.

: Respondents

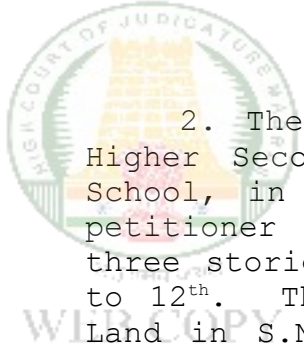
Prayer: Petition is filed under Article 226 of the Constitution of India for the issue of a Writ of Certiorarified Mandamus, calling for the records relating to the 3rd respondent in his proceedings in Lr.No.234M/Va2/Ko 14(A) / 2015, dated 16.06.2015 and quash the same and further direct the 3rd respondent to lease out the land measuring 1 acre 22 cents in S.No.6/1 Thirupalai Village, North Taluk, Madurai District, to the petitioner's School, for annual rent.

For Petitioner : Mr.S.Narendravasan

For Respondents : Mr.K.Guru
Addl.Govt.Pleader

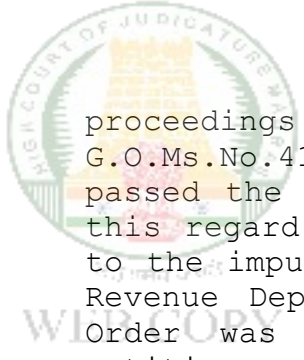
O R D E R

The Writ Petition has been filed praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the 3rd respondent in his proceedings in Lr.No.234M/Va2/Ko 14(A) / 2015, dated 16.06.2015 and quash the same and further direct the 3rd respondent, to lease out the land to an extent of 1 Acre 22 Cents in S.No.6/1 Thirupalai Village, North Taluk, Madurai District, to the petitioner School, for annual rent.



2. The petitioner School viz., 'Sri Ram Nallamani Yadavar Magalir Higher Secondary School', Thirupalai was upgraded as Higher Secondary School, in the year 1988. The total strength of the students in the petitioner School is around 1500. The Petitioner school consists of three storied building with nearly 40 class rooms, for the Standards 6th to 12th. The petitioner School is situated in the Government Poramboke Land in S.No.6/1, to an extent of 4 Acres 96 Cents. After obtaining necessary permission from the Government, the School has been established in the above survey number, in the interest of public. The Government had issued G.O.Ms.No.814, Revenue Department Ni.Mu.2.2, dated 02.09.1997, granting lease to run the School in S.No.6/1, for a period of 9 years, on annual rental basis. The petitioner School made a representation, requesting the authority to allot additional land near by the School, to an extent of 3 Acres 43 Cents, in addition to the lease granted to the petitioner School, for construction of Library, Classrooms, Computer Rooms, Play ground etc. After conducting the enquiry, the Special Commissioner and Land Administrative Commissioner forwarded his recommendation to grant lease in respect of 3 Acres 43 Cents to the petitioner School. But, without considering the representation made by the Petitioner and the recommendation made by the Special Commissioner and the Land Administrative Commissioner, the Revenue Department in G.O.Ms.No.414, dated 13.10.2003, rejected the request made by the petitioner, to allot additional land to an extent of 3 Acres 43 Cents for the above said purpose. The 2nd respondent made spot inspection and forwarded his proceeding in Na.Ka.No.:J1/84187/2006, dated 26.06.2009 by making it clear that the land measuring 1.22 Acres can be allotted to the petitioner School out of 3 Acres 43 Cents claimed by the petitioner. Further, the 2nd respondent also directed the Chief Engineer, PWD, Water Resource Organization, Periyar - Vaigai Channel Division, Madurai, to find out whether the irrigation and ground level water will be affected, in case the land is allotted to the School for lease and to that effect to issue No Objection Certificate. But, there is no response from the 3rd respondent. In fact, the 2nd respondent in his proceedings in Na.Ka.No.: 1009948/2001/J1, dated 19.07.2011 made a request to the 3rd respondent to take necessary action in issuing No Objection Certificate. But all are in vain. Hence, the petitioner School made a representation to the 1st respondent on 07.05.2015, to allot 1 Acre 22 Cents, to the petitioner School. Without conducting any enquiry and without making spot inspection, the 3rd respondent simply rejected the petitioner's request, on the ground that already the petitioner's request for additional allotment of 3 Acres 43 Cents had been rejected by passing G.O.Ms.No.414 Revenue Department, dated 13.10.2003. Aggrieved over the same, the present Writ Petition has been filed.

3. The learned counsel for the petitioner submitted that originally, G.O.Ms.No.414 Revenue Department, dated 13.10.2003 had been issued, rejecting the claim of the petitioner, to allot 3 Acres 43 Cents. But, subsequently, the 2nd respondent made a spot inspection and forwarded his proceeding Na.Ka.No.:J1/84187/2006, dated 26.06.2009, by making it clear that the land measuring 1.22 Acres can be allotted to the petitioner School, out of 3 Acres 43 Cents claimed by the petitioner and he has also directed the Chief Engineer, PWD, Water Resource Organization, Periyar - Vaigai Channel Division, Madurai, the 3rd respondent herein, to find out whether the irrigation and ground water will be affected in case the land is allotted to the School for lease. But, without considering the



proceedings of the 2nd respondent, dated 19.07.2011, by citing the earlier G.O.Ms.No.414 Revenue Department, dated 13.10.2003, the 3rd respondent has passed the impugned order without issuing No Objection Certificate. In this regard, the petitioner has also invited the attention of this Court to the impugned order passed by the 3rd respondent, wherein G.O.Ms.No.414 Revenue Department, dated 13.10.2003 was referred to, which Government Order was issued on earlier occasion, rejecting the claim of the petitioner.

4. I have heard the submissions made on either side and perused the materials available on record.

5. On perusal of the record it would reveal that based on the request of the Petitioner School, the District Collector, Madurai, the 2nd respondent herein made a spot inspection and forwarded his proceedings, dated 26.06.2009, to the Executive Engineer, P.W.D, Water Resource Organization, Periyar - Vaigai Channel Division, Madurai, the 3rd respondent herein, by making it clear that the land measuring 1.22 Acres can be allotted to the petitioner School, out of 3 Acres 43 Cents claimed by the petitioner. Further, the 2nd respondent also directed the 3rd respondent to find out as to whether the irrigation and ground water level would be affected, in case the land is allotted to the School for lease. Under such circumstances, the 3rd respondent in my considered opinion, ought to have found out as to whether 'No Objection Certificate' could be issued, but instead, the 3rd respondent by relying upon the said G.O.Ms.No.414 Revenue Department, dated 13.10.2003, rejected the request of the petitioner School, which is not proper. Hence, the impugned order is liable to be set aside.

6. In the result, the Writ Petition is allowed and the impugned order dated 16.06.2015, passed by the 3rd respondent is hereby quashed. The 3rd respondent is directed to pass appropriate orders, on the proceedings of the 2nd respondent, dated 26.06.2009, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1.The Secretary to Government,
Public Works Department,
Secretariat, Chennai.

2.The District Collector,
Madurai District, Madurai.

3.The Executive Engineer,
PWD, Water Resource Organization,
Periyar - Vaigai Channel Division, Madurai.

+1cc to Mr.PT.S.Narendravasan, Advocate SR.No.51387

+1cc to The Specila Government Pleader, Madurai. SR.No.52150

W.P. (MD) .No.11162 of 2015
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