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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDERS RESERVED ON: 27.10.2015
ORDERS DELIVERED ON:30.10.2015

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P(MD)No.16013 of 2015
and
M.P(MD)Nos.1 and 2 of 2015
and
W.P(MD)No.16261 of 2015
and
M.P(MD)No.1 of 2015

W.P(MD)No.16013 of 2015:

Madura Coats Private Limited,
New Jail Raod, Madurai -1,
Rep. By its Authorised Representative
Mr.K.S.Govindarajan,
President, Indian National Trade Union Congress,
New Jail Road,
Madurai – 625 001. ..Petitioner

Vs

1.The District Collector,
Madurai District,
Madurai – 625 020.

2.The Revenue Divisional Officer,
Madurai Revenue Division,
Madurai – 625 020.

3.The Tahsildar,
Tirupparankundram Taluk,
Tirupparankundram,
Madurai.

4.The Commissioner,
Madurai Corporation,
Tallakulam,
Madurai – 625 002.

5.The Commissioner of Police,
Madurai City,
South Chitrai Street,
Madurai – 625 001.

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6.The Inspector of Police,
Tirunagar Police Station,
Tirunagar,
Madurai.

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7.V.Muthuraj

...Respondents

(R-7 is impleaded vide Court order dated 14.10.2015 in M.P(MD)No.3 of 2015 by RPSJ)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF DECLARATION declaring that the Peace Committee Meeting Proceedings, dated 25.06.2015 of the third respondent, in respect of conducting the weekly market on the 43 cents of vacant land belonging to the petitioner Mill located in Survey No.150/1 at the entrance of Harveypatti, Tirupparankundram Taluk, Madurai District is Null and Void and consequently, forbear the respondents or their men or agents from conducting the Weekly Market or any other activity on the said 43 cents of vacant land and permit the petitioner to fence the said 43 cents of land with police protection, based on the representation, dated 22.08.2015 of the petitioner, within a limit to be fixed by this Honourable Court.

For Petitioner :Mr.D.Selvam for
Mr.R.M.Makesh Kumaravel

For RR1 to 3, 5 & 6 :Mr.M.Murugan,
Government Advocate

For R-4 :Mr.Prabhu Ramachandran

For R-7 :Mr.Babu Rajendran

W.P(MD)NO.16261 OF 2015

V.Muthuraj

.. Petitioner

vs.

1.The Government of Tamilnadu,
Rep. By its Secretary,
Housing Department,
st. George Fort,
Chennai.

2.The District Collector,
Madurai District,
Madurai.

3.The Deputy Registrar(Housing),
Madurai Division,
K.K.Nagar,
Madurai - 20.

4.The Tahsildar,
Thirupparankundram Taluk,
Madurai.

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5.Madurai Mills Co-operative Housing Society,
Through its Liquidator,
Sathamangalam,
Madurai – 625 020.

6.A-2581 Madurai Coats Public Servants
Co-operative Housing Society,
Rep. By its Secretary,
No.168, Thirumalai Colony,
P.P.Chavadi,
Madurai – 625 010.

7. Madurai Coats Private Limited,
through its President,
Madurai Coats office, New Jail Road, Madurai

8. N.Gurusamy .. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents 1 to 3 to take appropriate steps to recover the land situated in S.No.150/1 an extent of 43 cents, presently weekly market is running at Harveypatty, Thirupparankundram, Madurai for the welfare of the Madura Coats Workers.

For Petitioner :Mr.Babu Rajendran

For R1 to R4 :Mr.M.Murugan,
Government Advocate

For R-8 :Mr.P.Suresh

For R-6 & R-7 :No Appearance

COMMON ORDER

Since the issue involved in both the Writ Petitions are interlinked to each other, both the Writ Petitions are disposed of by way of common order.

2. W.P(MD)No.16013 of 2015 has been filed for a Writ of Declaration, declaring that the Peace Committee Meeting Proceedings of the third respondent, dated 25.06.2015, in respect of conducting the weekly market in 43 cents of vacant land, which belongs to the petitioner Mill located in Survey No.150/1 at the entrance of Harveypatti, Tirupparankundram Taluk, Madurai District, is Null and Void and consequently, forbear the respondents or their men or agents from conducting the Weekly Market or any other activity in the said 43 cents of vacant land and permit the petitioner to fence the said 43 cents of land with police protection, based on the representation of the petitioner, dated 22.08.2015, within a stipulated time.

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3. The learned counsel appearing for the petitioner-Mill submitted that the petitioner is the authorised representative of Madura Coats Private Limited, Madurai-1. At the initiative of erstwhile M/s.Madura Mills Company Ltd., Madurai(Presently Madura Coats Private Ltd.,), A.1303-Madura Mills Co-operative Housing Society Ltd., was formed and registered on 26.08.1938 to provide permanent own houses exclusively to its workers. The said society was administered by the Board of Director comprising of a representative of the Mill and the Madurai District Collector. A.1303-Madura Mills Co-operative Housing Society Ltd., acquired a land measuring to an extent of 91.78 acres and formed housing township known as "Harveypatti" consisting of 604 houses and leaving vacant space for public purpose for the welfare of the residents viz., establishment of school, park etc., and keeping some vacant site measuring to an extent of 19.24 acres located at different places in the Harveypatti township. In the year 1975, the said Society was ordered liquidation and the liquidator(Co-operative Sub-Registrar) took control and possession of all the properties of the Society including the above said vacant site of 19.24 acres at Harveypatti. After the change of erstwhile Madura Mills as Madura Coats Private Limited, there was no change in the position of employees, workers and in their welfare. After liquidation of the said society, the liquidator in his letters, dated 18.04.1980 and 06.06.1980 addressed to the petitioner-Mill proposed to sell the above said vacant lands to the petitioner-Mill so that the vacant site shall be given to the workers of the petitioner-Mill instead of selling to private public and the Liquidator fixed the cost of the said vacant land of 19.24 acres at Rs.17,910/- and directed the petitioner-Mill to remit the said amount before 15.06.1980. The petitioner-Mill accepted the proposal of the Liquidator and paid the cost of the vacant land in full, by way of Demand Draft at State Bank of India, dated 10.06.1980, and thus the sale transaction was concluded. Since the registration of the sale deed and delivery of possession of the said land was delayed by the Liquidator, the petitioner-Mill filed a suit in O.S.No.386 of 1997, before the District Munsif Court, Tirumangalam for specific performance of the sale by the Liquidator and to deliver absolute possession of 19.24 acres of vacant land to the petitioner-Mill.

4. It is further submitted by the learned counsel for the petitioner that though the said suit was decreed for specific performance, the same was dismissed in respect of delivery of possession, vide judgment dated 20.10.2004. Aggrieved over the same, the petitioner-Mill filed an appeal in A.S.No.1 of 2005 before the Principal Sub-Court, Madurai and similarly the Madura Coats Public Servants Co-operative Housing Society Ltd., has filed an appeal in A.S.No.157 of 2005 before the I Additional Sub-Court, Tirumangalam. The appeal filed by the Madura Coats Public Servants Co-operative Housing Society Ltd., in A.S.No.157 of 2005 was dismissed on 10.04.2006, whereas the appeal filed by the petitioner-Mill in A.S.No.1 of 2005 was decreed on 27.06.2006. Aggrieved over the same, the Madura Coats Public Servants Co-operative Housing Society Ltd., filed second appeals before this Court in S.A.No.932 of 2007 as against the judgment and decree passed in A.S.No.157 of 2005 and in S.A.No.647 of 2014 as against the judgment and decree passed in A.S.No.1 of 2005. When the above said second appeals were pending before this Court, the petitioner-Mill filed E.P.No.24 of 2005 before the District Munsif Court,

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Tirumangalam for execution of the sale deed in their favour. In the said execution petition, the District Munsif, Tirumangalam has passed an order dated 04.05.2007 to execute and register the sale deed in favour of the petitioner-Mill for 19.24 acres including the subject vacant land of 43 cents in Survey No.150/1. Against which, the Society had filed C.R.P.(MD)No.1298 of 2007 before this Court and in which interim stay was ordered up to 07.09.2007. But the same was not extended further in the above said C.R.P.

5. Under such circumstances, some third parties tried to grab the above said 43 cents of vacant land under the guise of organizing a weekly market on Saturday at the said vacant land and to collect toll from the vendor. Therefore, the petitioner-Mill with the help of employees, who are residing at Harveypatti Township, took action to fence the said vacant land. But the same was objected by some local hooligans and to avoid any untoward incident, the fencing was stopped. While so, without the knowledge of the petitioner-Mill, Madurai Corporation has auctioned and rented out the said vacant site of 43 cents in Survey No.150/1 in Harveypatti for organizing weekly market on Saturdays for one year in August 2014 and collected the rent. Hence, the petitioner-Mill took up the matter to the fourth respondent – Madurai Corporation and objected for auctioning the vacant land, which belongs to them. According to the petitioner-Mill, they are the absolute owner of the above property and there is no subsisting interim stay or any other order in the C.R.P and the second appeals pending before this Court. While so, the third respondent Tahsildar knowing well about the ownership of the petitioner-mill in respect of the vacant land, has convened a peace committee meeting with the local representative of political parties and Inspector of Police and other subordinate revenue officials and without inviting or informing the petitioner-Mill and behind the back of the petitioner-Mill, had taken a decision that,

(1) Nobody should encroach upon the said land until the Court cases between M/s.Madura Coats Private Limited and A.1303 Madura Coats Co-operative Housing Society Ltd., in respect of the ownership of the said vacant land is disposed of by Court,

(2) Nobody should disturb the weekly market being conducting on that land,

(3) Nobody should involve in the encroachment or act affecting law and order.

Aggrieved over the same, W.P(MD)No.16013 of 2015 has been filed, in which, the seventh respondent, who is the resident of Harveypatti impleaded himself by filing M.P(MD)No.3 of 2015 and he has also filed W.P(MD) No.16261 of 2015 for a Writ of Mandamus directing the respondents 1 to 3 to take appropriate steps to recover the land situated in S.No.150/1 measuring to an extent of 43 cents, where presently weekly market is running at Harveypatti, Thirupparankundram, Madurai for the welfare of the Madura Coats Workers.

6. The main contention of the learned counsel for the petitioner-Mill is that the subject land belongs to the petitioner-Mill totalling an extent of 19.24 acres. The petitioner-Mill has become absolute owner of the above property by way of the registered sale deed executed by the

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Court in E.P.No.24 of 2005 on 04.05.2007. While so, due to the agitation made by some political parties, the Tahsildar convened a peace committee meeting and granted permission to run weekly market in the petitioner's land. When the petitioner is the owner of the property, the Tahsildar has no right to conduct peace committee meeting without inviting the petitioner-Mill and therefore, the proceedings of the peace committee meeting is liable to be declared as null and void. Further, even as per the peace committee meeting, arrangement were made to run the weekly market only during the period of civil proceedings between M/s.Madura Coats Private Limited and A.1303 Madura Coats Co-operative Housing Society Ltd., and now the second appeals and C.R.P filed by the Society, were dismissed by this Court on 16.10.2015. On that ground also, the proceedings are liable to be declared as null and void.

7. The learned Government Advocate submitted that for the past three years, more than 75 small street vegetable vendors from adjoining villages used to assemble in the said vacant land measuring to an extent of 43 cents in Survey No.150/1, on every Saturday to run the weekly market. While so, A.1303-Madura Mills Co-operative Housing Society Ltd, tried to fence the disputed property. Hence, the public of the area opposed the move and created unrest among the general public. Hence, the Thasildar, conducted a peace committee meeting by informing the revolting parties through police on 25.06.2015 in order to avert the clash between them. Further, in the peace committee meeting, no decision was taken on the title of the property and no permission was granted to run the weekly market. Hence, he prayed for dismissal of the Writ Petitions.

8. The learned counsel appearing for the petitioner in W.P(MD)No.16261 of 2015 by reiterating the submission made by the learned counsel appearing for the petitioner-Mill submitted that the second appeals and C.R.P filed by the Society were dismissed by this Court on 16.10.2015. But, however, he had questioned the *locus standi* of the President to file the Writ Petition in W.P(MD)No.16013 of 2015 to file the Writ Petition.

9. Heard the submissions made on either side and perused the materials available on record.

10. In my considered opinion, the title with regard to subject property reached finality by dismissal of Second Appeals and Civil Revision Petition by this Court on 16.10.2015. Therefore, as on date, the petitioner-Mill is the owner of the subject property. Further, even as per the peace committee meeting, weekly market was permitted to run only during the pendency of the civil litigation between the Society and the petitioner-Mill and now it has reached finality. Moreover, peace committee meeting was conducted without inviting the petitioner-Mill and therefore, considering all these facts, I am of the opinion that the proceedings of the peace committee, dated 25.06.2015 is liable to be declared as null and void.

11. In the result, the W.P(MD)No.16013 of 2015 is allowed and the proceedings of the peace committee meeting dated 25.06.2015 is hereby declared as null and void. No Costs. Consequently, connected miscellaneous petitions are closed.

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12. In view of the order passed in W.P(MD)No.16013 of 2015, there is no need to give a specific direction in W.P(MD)No. 16261 of 2015 and hence, the same is dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To
1.The District Collector, Madurai District,
Madurai – 625 020.

2.The Revenue Divisional Officer, Madurai Revenue Division,
Madurai – 625 020.

3.The Tahsildar, Tirupparankundram Taluk,
Tirupparankundram, Madurai.

4.The Commissioner, Madurai Corporation,
Tallakulam, Madurai – 625 002.

5.The Commissioner of Police, Madurai City,
South Chitrai Street, Madurai – 625 001.

6.The Inspector of Police, Tirunagar Police Station,
Tirunagar, Madurai.

7.The Secretary,
Government of Tamilnadu,
Housing Department,
St. George Fort,
Chennai.

8.The Deputy Registrar(Housing),
Madurai Division,
K.K.Nagar,
Madurai – 20.

+1cc to M/S. R.M.Makesh Kumaravel, Advocate in SR.No .63968

+1cc to M/S.R.Prabhu Ramachandran, Advocate in SR.No. 63933

+1cc to M/S.Babu Rajendran, Advocate in SR.No. 64206

TS/05.11.2015/7P-12C/AMF/SAR II

ORDER MADE IN
W.P(MD)Nos.16013 and 16261 of 2015

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30.10.2015