



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.10.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.(MD) No.18749 of 2015

Bharathi Charitable Trust
rep.by its Managing Trustee
E.R.Reddy
No.5, Race Course Colony
Madurai District

... Petitioner

-vs-

1.The Government of Tamil Nadu
rep.by its Secretary
Revenue Department
St.George Fort, Chennai

2.The Commissioner of Land Administration
Ezhilagam, Chepauk, Chennai-05

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus directing the respondents to assign the lands in Survey Numbers 842/2B, 842/3B and 842/3C in favour of the School at an affordable price as recommended by the District Collector vide his order, dated 01.08.2005, in Na.Ka.Y.2/24765/2002.

For Petitioner : Mr.A.D.Jagadish Chandra

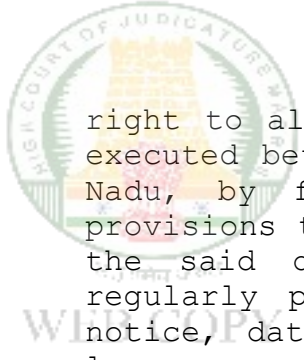
For Respondents : Mr.M.Murugan, G.A.

O R D E R

Mr.M.Murugan, learned Government Advocate, takes notice for the respondents. With the consent of both parties, this writ petition is taken up for final hearing at the admission stage itself.

2. The prayer in the writ petition is for issuance of a writ of mandamus to direct the respondents to assign the lands, comprised in S.Nos.842/2B, 842/3B and 842/3C in favour of the petitioner's School, namely, Chetana Matriculation School, at an affordable price as recommended by the District Collector vide order, dated 01.08.2005, in Na.Ka.Y.2/24765/2002.

3. According the petitioner, on 23.02.1989, the Tamil Nadu Housing Board allotted the land, comprised in Survey Nos.842/2B, 842/3B and 842/3C in favour of the petitioner Trust, at the rate of Rs.92,000/- per ground. Subsequently, the said allotment was cancelled as the land belongs to the Government and the Housing Board is not at all having



right to allot the land. Therefore, on 27.12.1993, a deed of grant was executed between the petitioner and his Excellency the Governor of Tamil Nadu, by fixing a rent payable at Rs.77,973/- per annum, with provisions to revise the rent once in every three years. In pursuance of the said deed of grant, dated 27.12.1993, the petitioner has been regularly paying the lease amount. Whiles, the Tahsildar, issued a notice, dated 10.09.2007, demanding Rs.1,90,33,627/- towards arrears of lease amount for the period from 31.05.1993 to 30.05.2008. Aggrieved, the petitioner filed a writ petition in W.P.(MD) No.363 of 2013 before this Court.

4. Besides the lease land measuring about 54 Cents, the Government permitted the petitioner to enjoy 59 Cents in Survey Nos.841/2 and 842/3, through a B-Memo, for playground, under the Tamilnadu Encroachment Act, 1905. Though the petitioner is entitled for Patta in terms of the notification issued by the Government that all those persons, who are in possession and enjoyment of Government poramboke lands for more than five years, are eligible for Patta for the said land, till date the petitioner has not been issued with Patta.

5. In such circumstances, the petitioner was issued with a B-Memo and as per the Tamil Nadu Encroachment Act, penalty was collected by the Tahsildar from the petitioner for the period from 17.03.1993 till 12.03.2009 for their encroachment and thereafter no penalty was collected. Since he is in possession for more than 22 years, he applied for Patta and the District Collector, Madurai, considering the petitioner's representation for assignment of Patta, made a recommendation to the second respondent, recommending to transfer the said land in favour of the petitioner. Based on the recommendation of the District Collector, the petitioner has made several representations to the respondents seeking assignment of the said land in favour of their School. But none of the representations has been considered. Therefore, the petitioner has filed this writ petition seeking a direction to the second respondent to consider his representation, in the light of the recommendation of the District Collector, Madurai, dated 01.08.2005.

6. The learned Government Advocate for the respondents would oppose to grant such a direction to the second respondent on the ground that there is arrears of rent to the tune of Rs.1,90,33,627/- payable by the petitioner and therefore the petitioner is not entitled for the relief sought for.

7. In this context, the learned counsel for the petitioner would submit that pending W.P.(MD) No.363 of 2013, the petitioner has paid the entire arrears amount and there is no arrear as on date.

8. Considering the facts and circumstances, without going into the merits of the petitioner's case, the second respondent is directed to consider the petitioner's representation, dated 10.08.2013, in the light of the recommendation of the District Collector, Madurai, dated 01.08.2005, after enquiring into the factum as to whether the petitioner has paid the entire arrears of rent as as stated above, and pass appropriate orders on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this Order.



9. Accordingly, this writ petition is disposed of. No costs.
Sd/-

Assistant Registrar

/True Copy/

WEB COPY

Sub Assistant Registrar

To

1.The Secretary,
Government of Tamil Nadu,
Revenue Department,
St.George Fort, Chennai.

2.The Commissioner of Land Administration,
Ezhilagam, Chepauk, Chennai-05.

+1cc to Mr.Antony S.Prabhakar, Advocate SR.No.60985

+1cc to The Special Government Pleader, Madurai. SR.No.61256

W.P.(MD) No.18749 of 2015

14.10.2015

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NS/MP/29.10.2015 : 3P/5C