



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.01.2016

CORAM :

THE HONOURABLE MR.JUSTICE V.RAMASUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

Writ Petition (MD) No.1482 of 2016

and

W.M.P(MD)Nos.1246 and 1247 of 2016

Infant Jesus and Charitable Trust,
Registered No.27,
Rep by Dr.Sr.M.Annai Theresita, R.I.M.P,
Beschi Mooligai Thootam,
Vedar Puliankulam,
Madurai 625 006.

... Petitioner

Vs.

1. The District Collector,
Madurai District,
Madurai.
2. The Tahsildar,
Thiruparankundram Taluk Office,
Madurai District.
3. The Executive Engineer,
Public Works Department,
Kundaru Irrigation Division,
Madurai.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to impugned proceedings in Na.ka.No.2565/2015/C dated 31.12.2015 on the file of the 2nd Respondent and quash the same as illegal and arbitrary and consequently direct the 2nd respondent to issue Patta in the name of Infant Jesus and Charitable Trust in bearing Survey No.120/2 120/3 120/5 which is total extent as 6 1/4 acres and the same is situated at Beschi Mooligai Thottam Vedar Puliankulam Madurai 625 006.

For Petitioner	: Mr.A.D.Ganeshamoorthi
For Respondents	: Mr.C.Selvaraj, Special Government Pleader.

ORDER

(Order of the Court was made by **V.RAMASUBRAMANIAN, J.**)

The petitioner has come up with the above writ petition challenging an order passed by the Tahsildar, refusing to grant patta/assignment to the petitioner in respect of the land of an extent of about 6 acres and 50 cents in Survey Nos.120/2, 120/3 and 120/5, Thiruparankundram Taluk, Madurai District.



3. The case of the petitioner is that the petitioner was started as a public charitable trust with a view to help the poor and the needy. The petitioner claims to have many educational institutions including colleges, technical institutions, schools, hospitals and dispensaries. As if the petitioner could have a public private partnership with the Government, the petitioner encroached into Government land of the extent of about 6 acres and 50 cents, took into confidence pliable officials of the panchayat as well as the Collectorate and put up few constructions and started claiming a right. The officials who lent a helping hand to the petitioner, obviously for collateral purposes, did not go to the extent of favouring him with an order of assignment or the grant of patta. Therefore, the petitioner came up with a writ petition in W.P.(MD) No.16224 of 2015 seeking a mandamus to direct the respondents to consider their representation for the issue of patta. Unfortunately, the said writ petition was ordered mechanically by an order dated 08.09.2015 directing the respondents to consider and to dispose it of in accordance with law.

4. Fortunately, one Tahsildar woke up and passed the impugned order dated 31.12.2015 refusing to grant assignment/patta and directing eviction on the ground that the land in question is a water body. Aggrieved by the said order, the petitioner is before us.

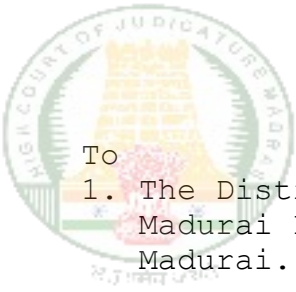
5. As we have stated earlier, the land of which the petitioner is seeking assignment did not belong to the petitioner. There is no dispute about the fact that it is a Government poramboke land. The petitioner disputes only the claim of the respondents that it is a water body.

6. Assuming that it is not a water body, the petitioner does not have title to the property. The proverb charity begins at home cannot be misunderstood and misapplied by the petitioner compelling the Government to assign poramboke lands to them, to enable them to do charity.

7. As a trust running several educational institutions, the petitioner should purchase properties out of their funds and do charity. Unfortunately, as is happening with most of the educational institutions, the petitioner has encroached into public lands and is also claiming a right to get assignment. The Tahsildar recorded a categorical finding that the land in question is a kanmoi (lake), whose capacity may reduce if the land is allotted. There is a clear prohibition under the Tamil Nadu Protection of Tanks and Eviction of Encroachments Act, 2007. This Court has repeatedly passed orders directing the respondents to throw out encroachments from water bodies. Therefore, the order impugned in the writ petition is perfectly in order. If the Tahsildar had actually assigned the land or refused to evict the encroachment, he would have been in contempt. Fortunately he did not do so. Therefore, we find no merit in the writ petition. Hence, it is dismissed. The respondents shall proceed further to remove the encroachments and file a report of compliance. No costs. Consequently, W.M.P.Nos.1246 and 1247 of 2016 are closed.

Sd/-

Assistant Registrar



To

1. The District Collector,
Madurai District,
Madurai.
2. The Tahsildar,
Thiruparankundram Taluk Office,
Madurai District.
3. The Executive Engineer,
Public Works Department,
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+1 CC to the Special Government Pleader, SR No.4523

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sms

SH/SKS-RR:09.02.2016:3P/5C