

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.09.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WP.No.9414/2017 & WMP.No.10379/2017

Sengunthar Samudhara Kodda
Padhuhappu Arakattalai, rep.by
its President A.Madheswaran ... Petitioner

Versus

- 1 The District Collector
Office of the Collectorate
Namakkal District 637 408.
- 2 The Tahsildar
Rasipuram, Namakkal District.
- 3 The State Information Commissioner
Tamil Nadu Information Commission,
No.2, Thiyagaraya Salai, Teynampet
Chennai 600 018. ... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the entire records of the 1st respondent pertaining Na.Ka.No.15872/2016/L1 and quash the order dated 09.03.2017 and direct the respondents 1 and 2 as not to proceed in any manner whatsoever in furtherance of the 1st respondent Letters dated 09.09.2016 ; 12.01.2017 and 09.03.2017 without clarifying with proper records that the land in which the petitioner has constructed the Sengunthar Community Marriage Hall belongs to the petitioner or belongs to the respondents 1 and 2.

For Petitioner : Mr.S.Natana Rajan
For R1 & R2 : Mr.R.Vijayakumar, AGP
For R3 : Mr.Niranjan Rajagopalan

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

By consent, the writ petition is taken up for final disposal.

2 It is the stand of the 1st respondent that in Survey No.93/2, a "Pavadi Thoppu", admeasuring to an extent of 1.64.5 Hectare is located is classified as "Poramboke Land" and out which, the land admeasuring to an extent of 0.09.5 Hectare has been encroached and a superstructure came into existence under the name and style of "Sengunthar Samudhayakooda Paduhappu Arakkattalai".

3 Action was initiated under the provisions of the Tamil Nadu Land Encroachment Act, 1905 and on behalf of Kumarasampalayam Sengunthar Samudhayakooda Paduhappu Arakkattalai and also on behalf of general public, one Madheswaran, submitted a representation dated 21.09.2016, praying for retention of the land on the ground that the said land is in use from the year 1930 onwards.

4 The 1st respondent has taken into consideration the long period of possession and the other facts and circumstances and passed the impugned order dated 09.03.2017, directing the petitioner - Trust to deposit the lease amount of Rs.2,86,328/- for the year 2015-2016 and since the same has not been paid, the 1st respondent directed the concerned official to initiate action under the provisions of the Tamil Nadu Land Encroachment Act, 1905, and challenging the legality of the same, the present writ petition is filed.

5 The writ petition was listed for hearing on 06.06.2017 and it was adjourned to 10.07.2017 and on that date, the learned counsel took time to file additional affidavit and the learned Additional Government Pleader also sought time to file counter and on 24.07.2017, counter affidavit has been filed and the learned counsel for the petitioner took time and accordingly, it was directed to be listed on 01.09.2017. The writ petition was once again listed for hearing on 04.09.2017 and the 2nd respondent has filed the counter affidavit and took a stand that one Eni.Perumal, a notorious person and a social activist, sent several representations that the persons belonging to the Trust had constructed superstructure in Survey No.93/2, which is a poramboke land and the said persons also started indulging in Road Roko, self immolation, picketting the Taluk Office, Revenue Divisional Officer's office, Collector's office and on the persistent demand from the persons belonging to the so-called Trust, the land was measured and it was found that the building

was constructed by means of encroachment on the land admeasuring to an extent of 0.09.5 Hectares of land in S.No.93/2 [extent 1.64.5 Hectares], classified as Pavadi Thope Poramaboke and in order to ease the situation on the proposals sent by the Tahsildar, Rasipuram on 20.06.2016, fixing the lease amount of Rs.2,86,328/- for the year 2015-2016 and the Tahsildar, Rasipuram, was directed to collect and keep the amount in personal deposit account vide Collector, Namakkal, proceedings dated 09.09.2016.

6 This Court has taken note of the contents of the counter affidavit and pointed out to the learned counsel for the petitioner that in the light of losing of the civil litigations instituted, the right of the petitioner - Trust / Association with regard to the said land in question appears to be weak, the learned counsel sought time to get instructions as to the deposit of Rs.2,86,328/- ordered to be paid as lease amount in the impugned order. Accordingly, the matter was directed to be listed today under the caption "for orders".

7 The learned counsel for the petitioner would submit that as per the impugned order, a sum of Rs.2,86,328/- has been remitted on 15.09.2017 in the Treasury and also produced the Xerox copy of the receipt in the form of additional typed set of documents to that effect and the same is also taken on file and recorded. The said remittance is also not disputed by the learned Additional Government Pleader, who would submit that since the amount ordered to be paid, has been remitted by the petitioner - Association / Trust, the regularisation process would take place.

8 This Court, taking into consideration the above facts and circumstances and also the subsequent developments, directs the 1st respondent to take note of the remittance of the sum of Rs.2,86,328/-, representing the lease amount for the year 2015-2016 and pass appropriate orders as expeditiously as possible and till such time, shall defer further decision as to the removal of the alleged encroachment under the provisions of the Tamil Nadu Land Encroachment Act, 1905.

9 The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

AP

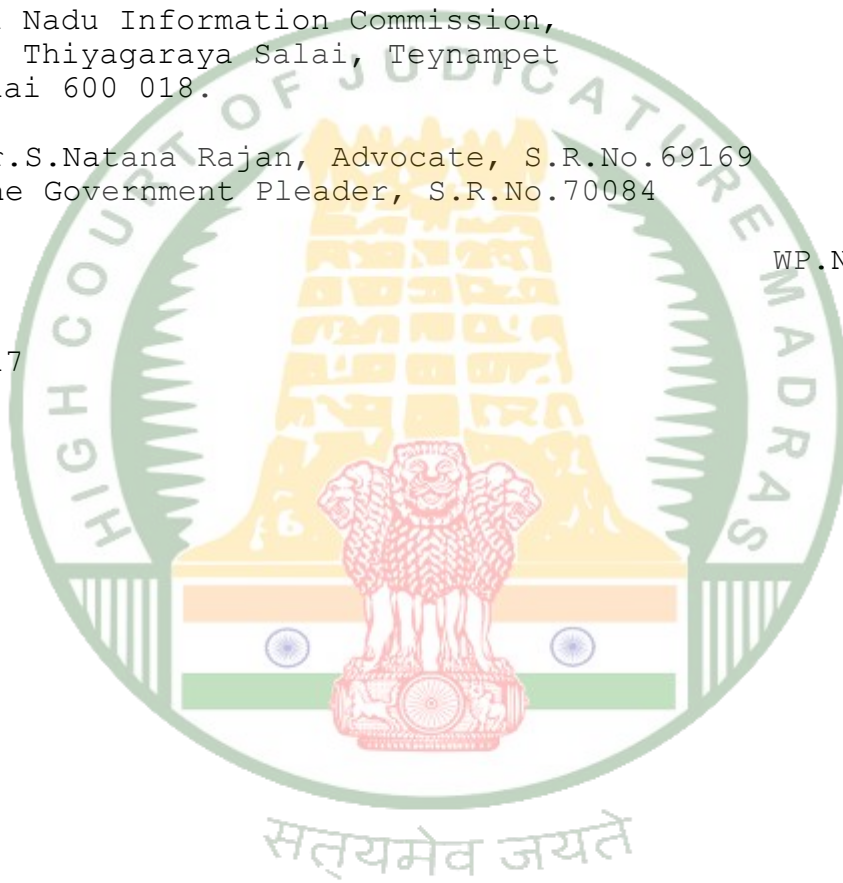
To

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Chennai 600 018.

+1cc to Mr.S.Natana Rajan, Advocate, S.R.No.69169
+1cc to the Government Pleader, S.R.No.70084

WP.No.9414/2017

AD(CO)
CS/25/10/17



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