

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 24.02.2017

DELIVERED ON: 02.03.2017

CORAM:

THE HON'BLE MR.JUSTICE P.N.PRAKASH

W.P.No.16372/2003

&

W.P.M.P. No.20463/2003 & W.V.M.P.No.97/2007

Jagadeesan Petroleum Service  
Hindustan Petroleum Corporation Dealer  
represented by its Partner  
D. Ramakrishnan  
C.N. College Complex  
Veerappan Chatram  
Erode 638 004

... Petitioner

vs.

- 1 The Government of Tamil Nadu  
represented by the Secretary to Government  
Revenue Department  
Fort St. George  
Chennai 600 009
- 2 The Special Commissioner and  
Commissioner for Revenue Administration  
Ezhilagam  
Chepauk  
Chennai 600 005
- 3 The District Revenue Officer  
Erode District  
Erode

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the records of the first respondent pursuant to his order dated 22.04.2003 made in proceedings No.21684/N.M.2.2/2001-3, quash the same and direct the respondents herein to grant lease of the land of an extent of 0.29.00 hectares in Survey Nos.272/1 and 272/2 in Periyasemur Village, Erode District in favour of the petitioner for a period of 30 years on such terms and conditions as per Rules.

For petitioner :Mrs. Al. Ganthimathi

For respondents:Mr. V. Ayyadurai, Addl. Adv. General  
assisted by  
Mr. S. Pattabiraman, Govt. Adv.

#### ORDER

This writ petition has been filed challenging the order dated 22.04.2003 passed by the first respondent and direct the respondents herein to grant lease of the land of an extent of 0.29.00 hectares in Survey Nos.272/1 and 272/2 in Periyasemur Village, Erode District, in favour of the petitioner for a period of 30 years on such terms and conditions as per Rules.

2 The undisputed facts are as under:

2.1 The land in question measuring around 0.29.00 hectares in R.S. Nos.272/1 and 272/2 was originally classified in the Revenue records as Government poramboke land and at the request of the Management of Sikkayya Naicker College, the Government of Tamil Nadu allotted the said land, together with a large extent, to the said college for running an educational institution. The Management of the said college had given on lease, the said 0.29.00 hectares by resolution dated 30.11.1985, to the petitioner, for the purpose of putting up a petrol bunk.

2.2 According to the petitioner, they obtained retail outlet dealership from Hindustan Petroleum Corporation Ltd. and while they were scouting for space, the Management of the said college offered to lease them the land and accordingly, they took the same by a registered lease agreement dated 01.12.1985 initially for a period of five years. It is the contention of the petitioner that they were not aware that the said land belonged to the Government and that the Government had assigned the said land to the Management for running an educational institution and therefore, believing that the land belongs to the College Management, the petitioner took the same on lease and established a petrol bunk and was also paying lease rent regularly to the College Management.

2.3 It is the further case of the petitioner that the Revenue authorities also inspected the land and gave a No Objection Certificate for locating a petrol bunk there. Only after complying with the procedural formalities, the petrol bunk was established in the said land, which, the petitioner is running till date. The Revenue authorities woke up from their slumber and realised that the land in question was allotted by the Government free of cost to the Management of the said

college for running an educational institution on condition that the Management should not alienate the property, but, in violation of the said condition, the Management leased out their land to the petitioner by a private treaty. Therefore, the District Revenue Officer, by order dated 13.10.1987, recalled the No Objection Certificate dated 05.02.1986 that was issued to the petitioner for putting up a petrol bunk in the said land. The petitioner appealed to the Appellate Authority, who confirmed the order of the District Revenue Officer, pursuant to which, the petitioner filed W.P. No.14632 of 1988, in which, this Court passed final orders on 02.04.1998 holding that the Revenue authorities ought not to have cancelled the No Objection Certificate issued to the petitioner, without first taking action against the Management of the college for having violated the terms of allotment.

2.4 Pursuant to the aforesaid order passed by this Court, the District Collector, by order dated 17.09.1999, cancelled a portion of the grant covering 0.41.5 hectares in S.No.272/2 that was given to the college and no orders were passed in respect of 0.29.00 hectares in the possession of the petitioner.

2.5 From then on, the petitioner, along with Hindustan Petroleum Corporation Ltd., has been making repeated requests to the Government to regularise the allotment made to them on the ground that they had entered into the lease agreement with the college Management on the bona fide impression that the said land belongs to the college. Pursuant to the petitioner's request, the Revenue Divisional Officer, Erode, conducted spot inspection of the petrol bunk and fixed the lease amount payable for the land.

2.6 Admittedly, the Government had not taken any decision to regularise the lease in favour of the petitioner. Of course, some of the Revenue authorities had given reports in favour of the petitioner. Ultimately, by the impugned order dated 22.04.2003, the Government of Tamil Nadu rejected the petitioner's request, challenging which, the petitioner is before this Court.

3 When this writ petition was taken up for admission on 10.06.2003, this Court granted interim injunction for a period of four weeks and on 04.09.2003, the order of interim injunction was extended until further orders.

4 The Government have filed their counter affidavit, in which, it is contended that the land in question absolutely belongs to the Government and that the Government had allotted the land to the college, free of cost, for running an educational institution on condition that the land shall not be

alienated, despite which, the Management of the college had leased out the land to the petitioner for running a petrol bunk. In short, the Government justified its stand on the ground that the rules do not permit the Government to regularise an illegality.

5 Heard Mrs. Al. Ganthimathi, learned counsel for the petitioner and Mr. V. Ayyadurai, learned Additional Advocate General assisted by Mr. S. Pattabiraman, learned Government Advocate, appearing for the respondents.

6 Mrs. Ganthimathi submitted that the petitioner is ready and willing to pay the market rent for the land and she also gave certain proposals. The proposals were forwarded to the Government and the same were not found to be acceptable.

7 Mr. V. Ayyadurai, learned Additional Advocate General, placed before this Court a communication dated 15.02.2017 sent by the District Revenue Officer, Erode, to the Secretary to the Revenue Department, Government of Tamil Nadu, in which, detailed calculations have been given for charging lease rent from the petitioner from the year 1998 onwards. The District Revenue Officer, Erode, has computed the amount based on the registered guideline value of the property that has been obtained from the Sub-Registrar's Office from 1998-2016. Of course, this communication does not say that if the petitioner comes forward to make the payment, as stated therein, the Government would regularise the lease. The communication essentially deals with the computation of the lease rent and nothing more. A copy of the same was handed over to Mrs. Al. Ganthimathi, who reported the petitioner's reservation in accepting the calculation.

8 Be that as it may, the fact remains that the land in question indubitably belongs to the Government. The Government had given the land free of cost to Sikkayya Naicker College for running a college in that area. One of the conditions of grant was that the said land should not be alienated. The Management of the college and the petitioner had entered into a lease agreement, under which, the petitioner was permitted to put up a petrol bunk in a portion of the land measuring 0.29.00 hectares. Just because, the Revenue authorities had given No Objection Certificate initially, that does not mean that they are bound by it eternally. An administrative authority can correct his mistakes at any time. From 1986 to till date, the petitioner has been running petrol bunk on Government land without making any payment. The Government has a right to either give the land on lease or refuse to give the land on lease to the petitioner, which right cannot be interfered with and the decision of the Government cannot be called in question, unless it is bristled with mala fides.

9 In this case, it is the other way round. The petitioner had taken on lease a land, which, ought not to have been leased out by the Management of the college, to which, the Government had given the land free of cost for running a college. Therefore, this Court, cannot interfere in the decision of the Government not to give the land on lease to the petitioner, in exercise of writ jurisdiction. In such view of the matter, the impugned order dated 22.04.2003 passed by the first respondent is sustained.

In the result, this writ petition is dismissed as being devoid of merits. Costs made easy. Connected M.Ps. are closed.

Sd/-  
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

- 1 The Secretary to Government,  
Revenue Department,  
Government of Tamil Nadu,  
Fort St. George,  
Chennai 600 009.
- 2 The Special Commissioner and  
Commissioner for Revenue Administration,  
Ezhilagam,  
Chepauk,  
Chennai 600 005.
- 3 The District Revenue Officer,  
Erode District,  
Erode.

+1cc to Mr.A.L.Ganthimathy, Advocate Sr.13836  
+1cc to the Government Pleader Sr.13855

W.P.No.16372 of 2003

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