



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 18.09.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.17341 of 2017

K.Balasubramaniam : Petitioner

Vs.

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.

3.The Deputy Superintendent of Police,
Thiruvadanai,
Ramanathapuram District.

4.The Tashildhar,
Thiruvadanai,
Ramanathapuram District.

5.M/s.Softech Infinium Solutions Ltd.,
Rep. by its Chairman,
Gopi Narayana Yadav,
No.29, Precision Plaza,
397, Anna Salai,
Teynampet,
Chennai-600 018.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 to 4 to evict the fifth respondent from the Government land in Old S.No.86/4A, New S.F.No.86/4A1 & 86/4A2 at the extent 69.08 Acres, Kalianagari Village, Thiruvadanai Taluk, Ramanathapuram District.

For Petitioner : Mr.K.Rajeshwaran
For Respondents 1to4 : Mr.M.Govindan,
Special Government Pleader
For Respondent No.5 : Mr.B.Saravanan



O R D E R

[Order of the Court was made by K.K.SASIDHARAN, J.]

INTRODUCTORY:

This Writ Petition is a classic example as to how the litigants are misusing the discretionary jurisdiction of the High Court under Article 226 of the Constitution of India by branding the private interest litigations as Public Interest Litigations.

BRIEF FACTS:

2. The petitioner filed this Writ Petition alleging that the fifth respondent is in possession of 69.08 Acres of Government land in Old S.No.86/4A, New S.F.Nos.86/4A1 & 86/4A2, Kalianagari Village, Thiruvadanai Taluk, Ramanathapuram District. The petitioner alleged that with the help of the police officials, the fifth respondent is doing Aquaculture business. The petitioner, therefore, prayed to evict the fifth respondent from Government land.

3. The fifth respondent, in the counter-affidavit, denied the case pleaded by the petitioner. According to the fifth respondent, the land was purchased by the predecessor-in-interest of M/s.Brindavan Gardens Limited, as per Registered Document Nos.917/94, 919/94, 933/94, 937/94, 953/94, 955/94, 956/94 and 973/94. The documents were registered before the Sub-Registrar Office, Thondi. The Company was later re-named as M/s.Softech Infinium Solutions Limited. The fifth respondent obtained patta by order dated 05 January, 2010. There was an attempt to grab the land by a dismissed Police Constable, by name R.Chandrasekar. He filed a suit bearing O.S.No.55 of 2015 and I.A.No.167 of 2015 for injunction, which was dismissed. The fifth respondent filed a suit in O.S.No.31 of 2017 against the said R.Chandrasekar for injunction. The matter was, thereafter, settled. According to the fifth respondent, there is a continuous attempt to grab the property with the connivance of certain Police Officers, like the third respondent. The fifth respondent contended that the land having an area of 69.08 Acres is the private property of the Company.

SUBMISSIONS:

4. The learned counsel for the petitioner, on verification of the title deed produced by the fifth respondent, made no attempt to prosecute the Writ Petition seriously.

5. The learned Special Government Pleader, on instructions from the Tahsildar, Thiruvadanai, and the Village Administrative Officer, who was present in Court, submitted that the fifth respondent is in possession of 69.08 Acres of land in Old S.No.86/4A, New S.F.Nos.86/4A1 & 86/4A2, Kalianagari Village, Thiruvadanai Taluk, Ramanathapuram District, on the strength of the registered documents and patta issued by the competent



authority. According to the learned Special Government Pleader, no other person got title or possession in respect of the subject property and it is the private property of fifth respondent.

6. The learned counsel for the fifth respondent reiterated the contentions taken in the counter-affidavit and prayed for a direction to the Police to act against the land grabbers, in case of trespass into the land owned and possessed by the fifth respondent.

DISCUSSION:

7. The petitioner claiming that the fifth respondent is in possession of Government land extending to 69.08 Acres filed the Writ Petition for removal of encroachment. The counter-affidavit filed by the fifth respondent and documents produced by the said respondent proved the falsity of the case pleaded by the petitioner.

8. The registered documents produced by the fifth respondent bearing Nos.917/94, 919/94, 933/94, 937/94, 953/94, 955/94, 956/94 and 973/94 clearly proved that the Company, by name M/s.Brindavan Gardens Limited purchased 69.08 Acres of land in Old S.No.86/4A, New S.F.Nos.86/4A1 & 86/4A2, Kalianagari Village, Thiruvadanai Taluk, Ramanathapuram District. The name of the Company was later changed as M/s.Softech Infinium Solutions Limited, as per order dated 26 July, 2000 of Registrar of Companies.

9. The Zonal Deputy Tahsildar, Thiruvadanai, by order dated 05 January, 2010, issued patta to the fifth respondent. The said fact is admitted by the Tahsildar and the Village Administrative Officer before this Court.

10. There was a civil suit in O.S.No.55 of 2015 filed by Thiru.R.Chandrasekar claiming that he entered into a partnership with one T.N.Sirajudeen, who entered into a sale agreement with the fifth respondent to do Aquaculture business. The Injunction Application filed in I.A.No.167 of 2015 was dismissed by the learned District Munsif, by a well-considered order. The order has become final.

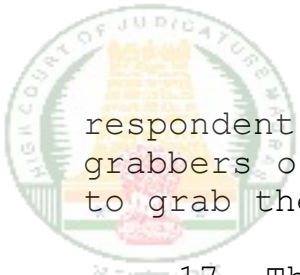
11. The fifth respondent filed a suit in O.S.No.31 of 2017 against R.Chandrasekar for injunction. Later, both the suits in O.S.Nos.55 of 2015 and 31 of 2017 were dismissed as settled out of Court confirming the title and possession of the fifth respondent.

12. The present Writ Petition appears to be another attempt to grab the land owned by the fifth respondent.

13. In order to ascertain the status of the land and as to who is in actual possession, we directed the third respondent to conduct enquiry and submit a report. The third respondent, in his

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16. The third respondent, in his affidavit, confirmed the right of the fifth respondent in respect of 69.08 Acres of land in Old S.No.86/4A, New S.F.Nos.86/4A1 & 86/4A2 in Kalianagari Village, Thiruvadanai Taluk, Ramanathapuram District and the possession of land by the said Company and agreed to take action against those who indulged in acts of trespass or any other criminal activities. In view of the attempt now made to brand the fifth respondent as an encroacher and to grab the land, we direct the respondents 2 and 3 to initiate action against those who interfere with the enjoyment of the subject land by the fifth respondent. In any case, it should be the endeavour of the respondents 1 to 4 to protect the private land of the fifth



respondent by taking suitable criminal action against the land grabbers or who are coming with a false claim, like the petitioner to grab the land .

17. The petitioner appears to be a name-lender only. There is absolutely no merit in the contention taken by him. We, therefore, direct the petitioner to pay a sum of Rs.5,000/- (Rupees Five Thousand only) as cost to the fifth respondent, within a period of 15 days from the date of receipt of a copy of this order, failing which, it is open to the fifth respondent to approach the Jurisdictional Judicial Magistrate for recovery of the amount treating it as a fine imposed by the Magistrate.

18. The Writ Petition is disposed of with the above direction and observation.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

- 1.The District Collector,
Ramanathapuram District,
Ramanathapuram.
- 2.The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.
- 3.The Deputy Superintendent of Police,
Thiruvadanai,
Ramanathapuram District.
- 4.The Tashildhar,
Thiruvadanai, Ramanathapuram District.
- 5.The Chairman,
M/s.Softech Infinium Solutions Ltd.,
Gopi Narayana Yadav,
No.29, Precision Plaza,
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Order made in
W.P. (MD) No.17341 of 2017
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