

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.04.2018

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

WP.No.10681/2018 & WMP.No.12623/2018

Udavum Karangal [Helping Hand]
Centre for Human Services, rep.by its
Founder Secretary, Mr. S.Vidyaakar .. Petitioner

Versus

- 1.The Secretary
Revenue and Disaster Management
Fort St George, Chennai 600 009.
- 2.The Secretary
Public Works Department
Chennai.
- 3.The Corporation of Chennai
Rippon Building, Chennai 600003.
- 4.The Collector
Thiruvallur Collector Office
Thiruvallur, Thiruvallur District.
- 5.The Collector
Rajaji Salai, Chennai 600 001.

.. Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus forbearing the respondents from interfering in the petitioner's peaceful possession in the building called "Karuna Illam" a wing of Udhavum Karangal situate at No.6, Ohm Sakthi Nagar, Burial Ground Street, Chennai 600 095 under the guise of Coovum River Eco-restoration Plan.

For Petitioner : Mr.A.Lobamudra for
Mr.P.R.Balasubramanian
For RR 1, 2, 4 & 5 : Mr.A.N.Thambidurai, Spl.GP
For R3 : Mr.K.Soundararajan

ORDER

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

By consent, the writ petition is taken up for final disposal. Mr.A.N.Thambidurai, learned Special Government Pleader accepts notice on behalf of the respondents 1, 2, 4 and 5 and Mr.K.Soundararajan, learned counsel accepts notice on behalf of the 3rd respondent.

2 The petitioner claims to be the Founder Secretary of an Organisation, viz., "Udhavum Karangal", and according to him, it is registered, secular, non-political and a non-profit making Organisation and also got a Certification as a Voluntary and Non-Governmental Organisation and is registered under the provisions of the Societies Registration Act, bearing Registration No.235/1984. The said Institution, according to the petitioner, is also registered with the State Commissioner for Differently Abled, Institution of Mental Health and Commissioner of Social Welfare.

3 The petitioner would further claim that it is a safe housing for nearly 2000 people and also acquiring to the needs of the people who are neglected or discarded by the Society. The petitioner would state that it purchased 72 cents of land in S.No.1 of Maduravoyal Village, Saidapet Division, through a Possession and Enjoyment Sale Deed dated 09.06.1993 and thereafter, put up a superstructure for the purpose of using it as "Psychiatric Nursing Home" at the cost of Rs.75,50,000/- and they are housing mentally ill persons from the year 1993 onwards to till date. The petitioner would also state that the Government of Tamil Nadu had also granted lease of 8 acres of Government land classified as "Punjai Aadeenam" in S.NO.310/1 and 2, Nemili 'B' Village, Sriperumbudur Taluk, for the period of ten years at a concessional lease amount of Rs.1000/- per year, vide G.O.Ms.No.284, Revenue Department dated 17.03.1995.

4 The grievance now expressed by the petitioner is that, all of a sudden, the 4th respondent and his subordinate officials called upon the petitioner to vacate and deliver vacant possession of the said land on the pretext that it encroaches upon the Banks of Coovum River and the said

land is required for "Coovum River Restoration Project". The petitioner, in this regard, has submitted a representation dated 31.03.2018 to His Excellency the Governor of Tamil Nadu as well as a detailed representation dated 11.04.2018 to the 4th respondent, giving details of the noble work done by the said Organisation and also the difficulties that may be faced by them in the event of vacating and delivering the possession of the site and superstructure in question and despite receipt and acknowledgment, day-in and day-out, attempts are being made to dispossess the petitioner from the site and superstructure in question and hence, the petitioner is constrained to approach this Court, by filing the present writ petition.

5 The learned counsel for the petitioner has invited the attention of this Court to the voluminous typed set of documents and would submit that the petitioner - Organisation is purely a non-profit Organisation and also a Non-Governmental Organisation caring to the needs of poor, downtrodden as well as mentally ill persons. The services have been recognised even by the Government of Tamil Nadu and it continues to do the selfless services without any profit motive whatsoever and if under the guise of Coovum River Restoration Project, their possession is sought to be disturbed and in that event, very many ill persons have to be relocated and it could be impossible for the petitioner - Organisation to do so and therefore, prays for appropriate orders.

6 Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents 1, 2, 4 and 5 and Mr.K.Soundararajan, learned Standing Counsel appearing for the 3rd respondent would submit that a lesson has been learnt during 2015 Mega Flood and a fair and conscience decision has been taken to remove the encroachment on the banks of the Coovum River and to restore to its original position and therefore, only in the interest of public, action is being taken in accordance with law.

7 The Court has considered the rival submissions and also perused the materials placed before it.

8 This Court, taking into consideration, the above facts and circumstances of the claim projected by the petitioner and without going into the merits of the claim projected by the petitioner, directs the 4th respondent to entertain the representation of the petitioner dated 11.04.2018 within a period of four weeks from the date of receipt of a copy of this order and shall afford an opportunity of personal hearing to the Founder Secretary of the petitioner Organisation or its authorised representative and thereafter, consider and dispose of the representation of the petitioner dated 11.04.2018 on

merits and in accordance with law, within a further period of twelve weeks thereafter and communicate the decision taken, to the petitioner Organisation and till such time, the respondents shall defer further decision to dispossess the petitioner in respect of the site and superstructure bearing No.6, Ohm Sathi Nagar, Burial Ground Street, Chennai-95.

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

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

AP

To

- 1.The Secretary
Revenue and Disaster Management
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- 2.The Secretary
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- 5.The Collector
Rajaji Salai, Chennai 600 001.

+1cc to Mr.P.R.BALASUBRAMANIAN, Advocate, S.R.No. 31118
+1cc to the Government Pleader, S.R.No. 32270

WP.No.10681/2018

NRI (CO)
TR(10/05/2018)