

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :23.07.2018

Coram

The Honourable Mr.Justice S.M.SUBRAMANIAM

W.P.No.23381 of 2016

and

W.M.P.No. 20047 of 2016

T.Parasuraman,
Panchayath President,
Road Street,
Vengalathur Village,
Vembakkam Taluk (Previoualy Cheyyar Taluk),
Thiruvannamalai District,
Pincode - 604 410.

...Petitioner

Versus

1.The District Collector,
Thiruvannamalai District.

2.The Tahsildar,
Vembakkam Taluk,
Thiruvannamalai District.

3.T.Munusamy

4.M.Leela Devi

...Respondents

Writ 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 the impugned order in Na.Ka.No.A4/49859/2015 dated 25.04.2016 passed by the first respondent and quash the same and consequently direct the respondents 1 & 2 to allot the entire land to an extent of 1.09 acres (0.44.0 hectares) in Survey No.221/1 at Vengalathur Village, Vembakkam Taluk, Thiruvannamalai District to the High School, Vengalathur within the time stipulated by this Hon'ble Court.

For Petitioner : Mr.A.Swaminathan

For Respondents - 1 & 2 : Mr.D.Raghu,
Government Advocate

Respondents 3 & 4 : Mr.S.Palanirasan

O R D E R

The only grievance of the writ petitioner is that the land in question has to be allotted for the purpose of expanding the school. It is admitted even by the learned counsel appearing on behalf of the writ petitioner that the petitioner is not personally aggrieved because the property in question does not belong to the writ petitioner. However, he filed the writ petition in view of the fact that in the event of the upgradation of the school, it may not be possible for the Authorities to run the school with adequate space. Further, it is contended that even at present the school is not having adequate space for free movement of the students including the play ground etc. Hence, the writ petitioner moved the present writ petition.

2. The claim of the writ petitioner to allot the land for the purpose of upgradation and expanding the school premises had been rejected vide proceeding dated 25.04.2016, by the first respondent. The rejection order came to be passed by the first respondent based on the representation of the writ petitioner to remove the encroachments. Thus, the learned counsel for the petitioner is of the opinion that his claim for allotting the land to the said school has not been considered at all.

3. The learned Government Advocate appearing on behalf of the respondents 1 & 2 made a submission that the writ petitioner has no locus standi to file the present petition in view of the fact that he is not an aggrieved person at all. Secondly, the school is presently having adequate space and there is no proposal by the Government for the upgradation of the school in the near future. This apart, the school requires 3.5 Acres for upgradation, which would be reserved as suggested by the District Collector, Thiruvannamalai District. However, at present the school is functioning with adequate space and therefore, this writ petition in this regard deserves no consideration at all.

4. The writ petitioner, referring the orders passed by the Assistant Director of Town Panchayat dated 13.01.2014, made a submission that there is a resolution already passed by the Village Panchayat and there is a proposal for the development of the said land to extend the school and to upgrade the same upto Higher Secondary level. This apart, certain encroachments were there in the said land and for the removal of the encroachment, steps have also been taken. The learned counsel for the petitioner states that more subsequently, respondents 3 & 4 were

encroachers.

5. The learned Government Advocate opposed the contention of the learned counsel for the petitioner by stating that respondents 3 & 4 were not encroachers and their own lands were acquired by the Government for the public purpose and they were allotted with 6 cents of land. Therefore, the respondents 3 and 4 are not encroachers.

6. In view of the submission made by the learned Government Advocate that the respondents 3 and 4 are not encroachers and the Government allotted land to the extent of 6 cents in lieu of the land acquisition effected in respect of the lands belonging to the respondents 3 & 4. There is no irregularity in allotting the land in favour of the respondents 3 & 4. The petitioner has no objection to allot the land in favour of the respondents 3 & 4, but, according to him, the same shall be allotted in some other area and not in the land proposed for the purpose of extending the school.

7. These policy decisions in respect of Government allotting the land in lieu of the land acquisition effected against the respondents 3 & 4 cannot be questioned by the writ petitioner. In view of the fact that these are policy decisions taken by the Government, it is left open to the Competent Authorities to upgrade the school or otherwise, by taking a decision and considering the needs and other aspects of the matter. The writ petitioner at present is not even holding the post of Panchayath President. At his individual capacity, he has filed the present writ petition as he was the President of the village panchayat at the time of filing of the writ petition. However, this Court is of the opinion that such policy decisions are to be taken by the Competent Authorities of the Government and the writ petitioner cannot file a writ petition to enforce his own idea by allotting the land adjacent to the school premises. No such writ petition can be entertained. Such claim, at best if at all available for the petitioner, he has to make a representation to the Competent Authorities and the decision will be taken at the administrative level in this regard and this Court cannot interfere in the upgradation or allotment of land in favour of the school or otherwise. This being the factum of the case, the writ petition cannot be maintained and it is left open to the Authorities to take a decision in respect of such matters. However, this Court is of the opinion that encroachers cannot be allowed and if at all there is any encroachment in respect of the Government lands, it is for the Authorities to evict the encroachers by following the procedures contemplated in law.

8. In view of the above discussion, the impugned order passed by the first respondent cannot be quashed. Accordingly, this Writ Petition shall stand dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

mrr/gmd

To

1. The District Collector,
Thiruvannamalai District.

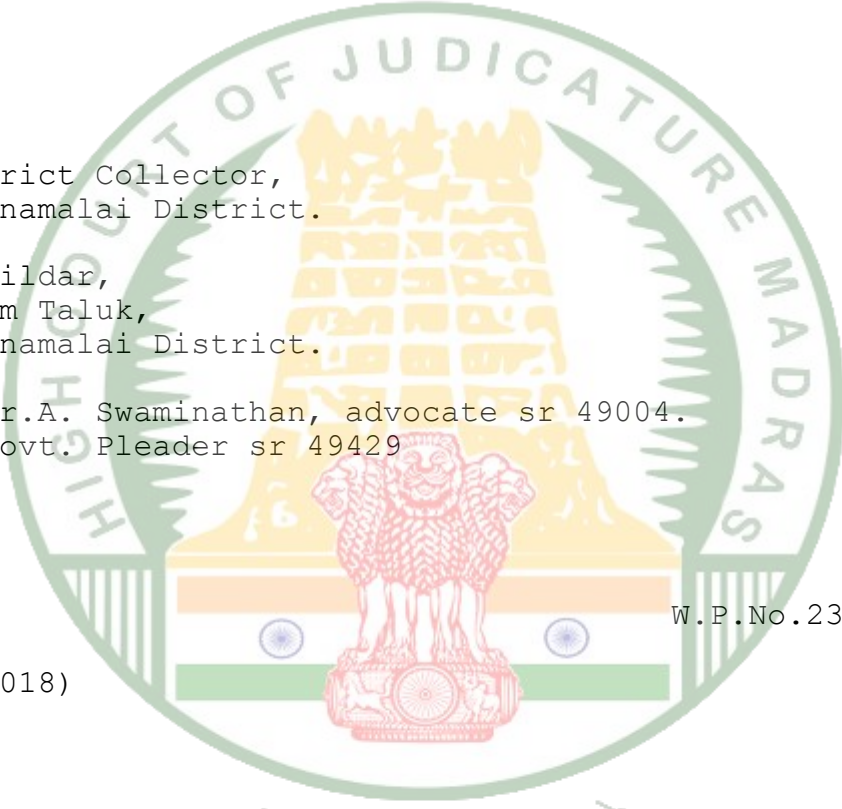
2. The Tahsildar,
Vembakkam Taluk,
Thiruvannamalai District.

+1 CC to Mr. A. Swaminathan, advocate sr 49004.

+1 CC to Govt. Pleader sr 49429

SP (04/09/2018)

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