

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.17439 of 2018
and W.M.P.No.20720 of 2018

B.Sekar

.. Petitioner

Vs.

1.The Collector of Krishnagiri District
Krishnagiri

2.District Revenue Officer
Krishnagiri District

3.Tahsildar
Taluk Office, Bargur
Krishnagiri District

4.Commissioner
Krishnagiri Municipality
Krishnagiri District

.. Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, for a Writ of Mandamus, directing the respondents herein from dumping the waste, garbage and debris of the Krishnagiri Municipality on to land in S.No.925/4, Surankuttai Village Paleppalli Panchayat, Bargur Taluk, Krishnagiri District.

For Petitioner : Mr.M.V.Krishnan

For Respondents : Mr.T.N.Rajagopalan,
Government Pleader for R1 to R3
Mr.S.Kamalesh Kannan for R4

ORDER

(Order of this Court was made by S.MANIKUMAR, J.)

Instant writ petition has been filed seeking for a direction to the respondents, not to dump the waste, garbage and debris of

Krishnagiri Municipality on to the land in S.No.925/4, Surankuttai Village, Paleppalli Panchayat, Bargur Taluk, Krishnagiri District.

2. The above public interest litigation has been filed by the petitioner representing the villagers of Surankuttai Village, Paleppalli Panchayat, Bargur Taluk, Krishnagiri, which forms part of Bargur Assembly Constituency. Surankuttai village has Hindu Adi Dravida population, who offer their worship at the ancient Swarna Bairava Swami Temple. Christian families who are residing there in the said village, have church and cemetery in the said place.

3. Material on record further states that, five years ago, Krishnagiri Municipality began to dump municipal garbage, waste and debris on the land in S.No.925/4 in Surankuttai village and same is located very close to the ancient Swarna Bairava Swamy Temple, Church and Cemetery. There is also a pond in the same land in S. No.925/4 and water is used by the villagers. The dumping of waste, garbage and debris, has not only polluted the air, but also polluted the ground water. There is also a pathway close to this land, which has been used by the villagers, particularly school going children.

4. It is the contention of the petitioner that, in an arbitrary manner and without any notice or enquiry, Krishnagiri Municipality removed an extent of 5.0 Acres in S. No.925/4 from the Adangal, which was earlier shown in the adangal as grazing poramboke. The protests by the villagers of Surankuttai village to stop dumping of garbage, etc. and to rectify the unauthorised correction made in Adangal, had no effect. Hence the petitioner has filed a writ petition in W.P. No.27330 of 2013, for correction of the Adangal entry in S. No.925/4 in Paleppalli Panchayat, Bargur Taluk, Krishnagiri District and that the same was withdrawn, with liberty to move the District Collector for relief, in accordance with law.

5. Accordingly, the petitioner has sent a registered notice on 08.11.2016 to the District Collector, the first respondent herein, to carry out necessary rectification in the adangal extract and to stop the dumping of garbage, waste and debris on to the land in S. No.925/4 in Paleppalli Panchayat, Bargur Taluk, Krishnagiri District. However, there was no response to the notice and Krishnagiri Municipality, continues to dump the garbage, waste and debris on the land adjacent to Swarna Bairavar Temple, church, cemetery and pathway, causing considerable damage to the environment and hardships to the villagers of Surankuttai. Hence the petitioner has filed the instant writ petition as public interest litigation, for the relief stated supra.

6. On 12.07.2018, when the writ petition, came up for admission, Mr.T.N.Rajagopal, learned Government Pleader took notice for respondents 1 to 3 and Mr.S.Kamalesh Kannan, took notice for the Commissioner, Krishnagiri Municipality. A Hon'ble Division Bench of this court directed the first respondent to file a report stating as to why the direction sought for in the writ petition should not be granted. Hon'ble Bench also directed the first respondent to explain as to why he did not take any action on petitioner's representation dated 08.11.2016 submitted through his counsel, pursuant to liberty granted by the Hon'ble Bench in the earlier writ petition and further directed the matter to be listed on 03.08.2018.

7. Accordingly, as per the directions of this court dated 12.07.2018, the District Collector, Krishnagiri, namely, the 1st respondent, for and on behalf of the respondents 1 to 3, filed his counter affidavit. He has also filed a Status Report. Commissioner, Krishnagiri Municipality, Krishnagiri has filed a separate counter affidavit.

8. In the counter affidavit, the Commissioner, Krishnagiri Municipality, has stated that the land in S. No.925/1 was classified as "Pulkaval" in the revenue records. The said land was subdivided into 925/1, 925/4 and 925/5. The said land is about 5 Acres. Due to the requirement of establishment of a solid waste management plant, as per G.O. Ms. No.964, Revenue (LD-7) Department, dated 23.12.2010, land was alienated to the Commissioner, Krishnagiri Municipality, on condition of payment of Rs.1,67,62,950/-. It is further stated in the counter affidavit that the population of Krishnagiri Municipality is about 2 lakhs and due to imminent need for establishment of a solid waste management plant in a proper manner, District Collector, Krishnagiri District, through the above mentioned Government Order, alienated land from Animal Husbandry Department, on condition of payment. The Commissioner, Krishnagiri Municipality had conveyed his inability to pay a huge cost to the 1st Respondent, namely the Collector, Krishnagiri District and till date, the land remains to be in its original condition.

9. Commissioner, Krishnagiri Municipality, in his counter affidavit has further stated that as per Solid Waste Management Rules, 2016, there are no habitations or worship places or water bodies within 500m of the land. It is further stated that the land in question is suitable for establishment of a solid waste management plant for proper disposal of the waste generated in the municipality. As on date, the collected waste, though segregated as required at the source, and the same is stored at Kothapetta Colony, Krishnagiri, without processing, due to requirement of a proper scientific facility.

10. He has further stated that till date, the site is not used for dumping or processing of solid waste and the same remains vacant and due to non completion of the conditions as required under G.O. Ms. No.964, Revenue (LD-7) Department, dated 23.12.2010. The said land remains to be "Pulkaval", with the possession of the District Authorities.

11. Status Report of the District Collector, Krishnagiri District, filed as per the order of this court dated 12.07.2018, reads thus:

"4. It is submitted that the petitioner has already filed a petition in W.P. No.27330/2013 in this Hon'ble Court with a same prayer to alter the entries in the Adangal. Later on the petitioner himself has withdrawn the said petition. This Hon'ble Court has dismissed the above petition on 29.06.2016. The petitioner has sent a representation on 08.11.2016 through his counsel with a request to take immediate steps to make correction in the revenue records. The said objection was replied by this respondent in Na. Ka. No.11424/2009 (H1), dated 24.03.2017.

5. It is submitted that the counsel of the petitioner in his representation dated 08.11.2016, has requested not to alter the classification of the land S. No.925/1 of Palepalli village has not been altered. This fact was informed by this respondent in 11424/2009 (H1), dated 24.03.2017. Thus the representation of the counsel of the petitioner was duly replied to the petitioner.

6. It is submitted that the land S. No.925/1 measuring 4.56.0 hectares of Palepalli village has been classified as "Pulkaval" in Government records, which literally means grazing ground. The cattles of the village will graze in the land. This land lies 10 Km from Krishnagiri Municipality limits. Krishnagiri Town is Grade I Municipality and District Headquarters. Population of Krishnagiri Municipality is roughly about 2,00,000. There was huge wastage dumps in the Municipality, to dispose the wastage of municipality, no suitable Government poramboke lands were available in and around Krishnagiri Town limit.

7. The District Administration made sincere attempts to select suitable land in the nearby municipal limit. Finally the land S. No.925/1 measuring 4.56.0 of Palepalli village was selected by the Government and an extent of 2.02.5 hectare of land in the said land selected and allotted for the purpose. The said land S. No.925/1 was sub divided

into 925/1, 925/4 and 925/5. The land S. No.925/4 measuring 2.02.5 hectare has been alienated to Krishnagiri Municipality for disposal wastage. The Government in G.O. Ms. No.964, Revenue Department, dated 23.10.2010 have alienated this land to the Krishnagiri Municipality, on payment of land cost.

8. Till date, the Municipality had not paid the land cost and the land is under possession of Revenue Department only. Since, the land cost was not paid by the Municipality, the land was not handed over to them and it was not used as a dump yard as on date. As mentioned in the affidavit by the petitioner, the said land is not a water course poramboke. The water body is not alienated for this purpose.

9. It is submitted that the present land cost for the said land as per the conditions assigned in G.O. Ms. No.964/Revenue Department dated 23.10.2010 has been fixed as Rs.1,67,62,90/- and the same was intimated to the Municipality, Krishnagiri. The Commissioner, Krishnagiri Municipality has reported his inability to pay huge amount and requested the District Administration to cancel the said alienation and requested to allot another suitable poramboke land with moderate cost. Hence, the proposal for setting up of a dumping yard at Survey No.925/4 measuring 2.02.5 Hec., has been dropped and necessary alternate site will be selected."

12. Heard the learned counsel for the parties and perused the materials available on record, including the Status Report of District Collector, Krishnagiri, the first respondent.

13. From the Status Report of the District Collector, Krishnagiri District, it could be deduced that the cost of the land in question as per the conditions assigned in G.O. Ms. No.964/Revenue Department dated 23.10.2010 has been fixed as Rs.1,67,62,90/- and that the same was intimated to the Commissioner, Krishnagiri Municipality/4th respondent herein. The Commissioner, Krishnagiri Municipality, has expressed his inability to pay such a huge amount and hence requested the District Administration to cancel the said alienation and further requested to allot another suitable poramboke land with moderate cost. Hence, District Administration has cancelled the proposal for setting up of a dumping yard at Survey No.925/4 measuring 2.02.5 Hec. and that necessary alternate site would be selected.

14. In view of the decision of the municipality, set out in the counter affidavit of the Commissioner, Krishnagiri

Municipality and the Status Report of the District Collector, Krishnagiri that the proposal to set up a dumping yard at Survey No.925/4 measuring 2.02.5 Hec. in Paleppalli village, has been dropped and that necessary alternate site would be selected, there is no need to issue any mandamus, as prayed for.

Accordingly, the writ petition is dismissed. No costs. Consequently, the connected writ miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

- 1.The Collector of Krishnagiri District
Krishnagiri
- 2.District Revenue Officer
Krishnagiri District
- 3.Tahsildar
Taluk Office, Bargur
Krishnagiri District
- 4.Commissioner
Krishnagiri Municipality, Krishnagiri District

+1cc to Mr.M.V.Krishnan, Advocate, S.R.No.55904

+1cc to the Government Pleader, S.R.No.56047

सत्यमेव जयते

W.P.No.17439 of 2018
and W.M.P.No.20720 of 2018

KS (CO)
GSP(17/09/2018)

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