

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2018

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.39597 of 2006 &
M.P.No.1 of 2006

Arivazhagi

.. Petitioner

Vs

1. The Government of Tamilnadu,
represented by District Collector,
Nagapattinam.

2. The Tahsildar,
Tsunami & Rehabilitation,
Nagapattinam.

3. Lutheran World Service,
Non Governmental Organisation,
by its Project Officer,
Fishermen Street, Thirumullaivasal,
Sirkali Taluk, Nagapattinam District.

4. Mullaivananatha Swamy Temple,
By Hereditary Trustee,
Dharmapura Adhinam,
Mayiladuthurai, Nagapattinam.

5. The Commissioner,
Tamil Nadu Hindu Religious
& Charitable Endowments,
Nungambakkam, Chennai.

... Respondents.

Prayer: Writ Petition filed under Article 224 of Constitution of India praying for issuance of a Writ of Mandamus forbearing respondents, their men and agents from any manner dispossessing the petitioner from the properties comprised in S.No.537/1 in Sirkali Taluk, 41, Thirumullaivasal Village, measuring 1 acre and 40 cents except by due process of law.

For Petitioner : Mr. N.A.Nissar Ahmed

For Respondents: Mr.K. Ravikumar

Addl. Govt. Pleader for R1 and R2

Mr. S.Sounthar for R4

Mr. M. Maharaja

Special. Govt. Pleader, (HR&CE) for R5

ORDER

The petitioner has filed this Writ Petition for mandamus forbearing the respondents, their men and agents from any manner dispossessing the petitioner from the properties comprised in S.No.537/1 in Sirkali Taluk, 41, Thirumullaivasal Village, measuring 1 acre and 40 cents except by due process of law.

2. The case of the petitioner is that the petitioner is a cultivating tenant under the 4th respondent Temple in respect of the land comprised in S.Nos.537/1 in Sirkali Taluk, 41, Thirumullaivasal Village, measuring 1 acre and 40 cents. During Tsunami, the petitioner and his family were affected and they were also provided tsunami relief.

3. It is the further case of the petitioner that the Government in GO.Ms.No.214 dated 19.9.2005 granted permission to acquire the lands for constructing houses for the purpose of rehabilitation of Tsunami victims and the lands have been acquired through private negotiation with the 4th respondent temple. It has come to the knowledge of the petitioner that the Commissioner of Tamilnadu Hindu Religious and Charitable Endowments has consented for acquisition and granted permission for sale of land under section 34 of the HR&CE Act in favour of tsunami affected victims and the same was published in Daily Thanthi dated 1.11.2005 inviting objections and suggestions, pursuant to which, the petitioner attended enquiry and submitted her objections.

4. It is the grievance of the petitioner that the respondents 1 to 3 are illegally attempting to dispossess the petitioner. The respondents 1 and 2 without due process of law have engaged the 3rd respondent for construction of houses for Tsunami victims in her property. Aggrieved against such illegal action, the petitioner, left with no other alternative, has come to this Court by way of filing the present Writ Petition.

5. Refuting the same, a counter has been filed by the 4th respondent/Temple.

6. Heard both sides and perused the averments in the affidavit and counter.

7. It is seen that through private negotiation, the 1st respondent wanted to secure the land to an extent of 2.72 hectares in land Survey No.537/1, Thirumullaivasal Village, Sirkali Taluk for construction of houses for Tsunami victims. Since the request of Government is based on Public interest and welfare of poor people, the 4th respondent temple expressed its consent for alienation of the said property to Government as per their request. Accordingly necessary application was made to the Commissioner of HR&CE for the sanction required under section 34 of HR&CE Act.

8. After filing of this Writ Petition, the Commissioner, HR&CE, by proceedings dated 18.10.2006 in V.No.11/2005/R1 permitted the 4th respondent to sell the property to Government. Pursuant to the sanction order by Commissioner, the 4th respondent after receiving entire sale consideration, executed a sale deed in favour of 1st respondent on 30.07.2007. Thereafter the possession of the property was also delivered to the 1st respondent and the order dated 18.10.2006 was also served on the petitioner.

9. Since the Commissioner granted his sanction by order dated 18.10.2006, pursuant to which, possession was also delivered to the 1st respondent, this Court is of the view that nothing survives for further adjudication in this Writ Petition. Hence this writ Petition is dismissed. No costs. Consequently, M.P.No.1 of 2006 is closed.

Sd/-
Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

msr

To

1. The District Collector,
Government of Tamilnadu,
Nagapattinam.
2. The Tahsildar,
Tsunami & Rehabilitation,
Nagapattinam.
3. The Commissioner,
Tamil Nadu Hindu Religious
& Charitable Endowments,
Nungambakkam, Chennai.

+1cc to Mr.N.A.Nissar Ahamd, Advocate SR.No.32101
+1cc to Mr.S.Sounther, Advocate SR.No.32156
+1cc to Government Pleader SR.No.32841
+1cc to Special Government Pleader, SR.No. 32602

W.P.No.39597 of 2006

RJ (CO)

GN(05/06/2018)