



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.02.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.A.(MD)No. 1483 of 2017

and

C.M.P(MD)Nos.11748 and 11749 of 2017

M/s.Sundaram Textiles Ltd.,
represented by its General Manager,
No.36, Maruthur Road,
Therkkuthuru, Melur Taluk.

.. Appellant/Petitioner

Vs.

1. The Commissioner,
Land Administration,
Chepauk, Chennai - 600 005.

2. The Collector of Madurai,
at Madurai.

3. The Tahsildar,
Melur Taluk, Melur.

4. The Revenue Inspector,
Melur.

.. Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent Act, to set aside the order made in W.P.No.11749 of 2004 dated 24.10.2017.

Prayer in W.P.No.11749 of 2004:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of certiorarified mandamus to call for the records in the impugned order in Na.Ka.No.2821/98/Aa1 dated 07.03.2004 passed by the third respondent, quash the above said order and further direct the respondents to take suitable steps for selling the land to an extent of 2.99 acres comprised in S.No.127/1B of Therkkuthuru Village, Melur Taluk to the petitioner/Mills.

For Appellant : Mr.M.V.Venkataseshan

For R-1 to R-4 : Mr.M.Murugan

Government Advocate

: Ms.S.Leena for

Mr.S.Govindan for

Tamil Nadu Pollution Control Board

**JUDGMENT**

[Judgment of the Court was delivered by M.SATHYANARAYANAN, J.]

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By consent, the main Writ Appeal itself is taken up for final disposal.

2. Mr.M.Murugan, learned Government Advocate appears for respondents 1 to 4 and Ms.S.Leena learned counsel representing Mr.S.Govindan, learned counsel appearing for the District Environmental Engineer, Tamil Nadu Pollution Control Board, Madurai.

3. The facts leading to the filing of this case have been narrated in detail in the impugned order of dismissal of the Writ Petition, dated 24.10.2017 and therefore, it is not necessary to set out all the facts, except to cull out the relevant facts, for the purpose of disposal of this Writ Appeal.

4. The third respondent herein has issued the impugned notice dated 06.02.2004 to the appellant/writ petitioner, alleging that the appellant/Textile Industry, had encroached upon the Government poramboke land and is using the same for industrial purposes and also planted coconut trees and therefore, levied penalty of Rs.1,45,593/- and confirmed the same, vide impugned order dated 07.03.2004 and making a challenge to the said order, the appellant/writ petitioner has filed the Writ Petition.

5. The Writ Petition was entertained and after eliciting response, the learned Judge found from the communication dated 06.02.2004 issued by the third respondent that the appellant/writ petitioner has utilised the Government poramboke land for industrial purpose and there are coconut crops in the said land and the said action makes it clear that Government poramboke land has been utilised for industrial purpose and further that, it has not been used for agricultural purposes and in the light of the stand taken by the respondents in their counter-affidavit that trade effluents are being pumped into the Government land and the learned Judge citing the said reason, dismissed the Writ Petition and also granted liberty to the petitioner, to submit a representation to purchase the land in question and as and when the said representation is submitted, it was directed to be considered, in accordance with law, only after payment of the amount demanded in the impugned order.

6. The Writ Petitioner challenging the legality of the said order, came forward to file this Writ Appeal.

7. The Writ Appeal was entertained and it was brought to the knowledge of this Court by the learned counsel appearing for the appellant/writ petitioner that without prejudice to his rights and

contentions, the appellant/writ petitioner has deposited the sum of Rs.1,45,593/- (Rupees One Lakh Forty Five Thousand Five Hundred and Ninety Three Only), as demanded in the impugned order, before the third respondent and also made a submission that only coconut trees are there in the Government poramboke land and no trade effluents are being let in.

8. This Court to find out the veracity of the said submission made on behalf of the appellant/writ petitioner, directed the District Environmental Engineer, Tamil Nadu Pollution Control Board, SIDCO Industrial Estate, Kappalur, Thirumangalam Taluk, Madurai, to cause inspection, after putting the parties on notice and to file a report before this Court. Accordingly, the said official caused inspection and also filed a report today.

9. A perusal of the said report would disclose that the Petitioner's Unit is having consent to operate the Unit from 05.11.2007 and it was valid upto 31.03.2008. It is relevant to extract paragraph Nos.4 and 5 of the said report dated Nil.

4. The unit was inspected by the DEE & AE, TNPCB, Madurai along with V.A.O, Therkutheru Village and Mr.Srinivasan, unit's representative on 06.02.2018 and observed the following.

a. The disputed land with R.s.No.127/1B is adjoining the R.S.No.79 where the industrial activity is existing.

b. Around 82 Nos of Coconut trees are planted and maintained in it.

c. Drip irrigation is provided to wet the coconut trees.

d. No waste water is generated by the industry in its production activity of Cotton Yarn from Ginned Cotton.

e. The domestic waste water generated by the workers is treated and disposed through septic tank with soak pit arrangement.

5. Report: It is submitted that 'No waste water is found to be discharged in the disputed land of Revenue Survey No.127/1B.'

10. In the light of the stand taken by the Tamil Nadu Pollution Control Board, this Court is of the considered view that though the appellant/writ petitioner had encroached upon the land admeasuring to an extent of 2.99 acres in Survey No.127/1B of



Therkkutheru Village, Melur Taluk, Madurai District, did not let in trade effluents, but raising only coconut trees.

11. However, the fact remains that the appellant/writ petitioner without prejudice to his rights and contentions, has deposited the sum of Rs.1,45,593/-, as per the impugned demand raised by the third respondent and it also lies in deposit with the said official.

12. The learned counsel appearing for the appellant/writ petitioner would submit that citing pendency of the writ petition, B-memo charges have been levied and out of the deposited amount, arrears of B-memo charges as well as future B-memo charges, may be adjusted and the appellant/writ petitioner may be permitted to approach the concerned Authority either to assign or to purchase the land for consideration and it may be directed to be considered and disposed of, within a stipulated time.

13. This Court heard Mr.M.Murugan, learned Government Advocate appearing for the official respondent on the said submission.

14. In the light of the above facts and circumstance, this Court directs the third respondent to adjust the sum of Rs.1,45,593/- lies with him towards arrears of B-memo charges and continue to adjust the said sum towards future B-memo charge also and the appellant/writ petitioner is also liberty to make a representation to the Government as well as to the respondents 1 and 2, either to assign or to purchase the land admeasuring to an extent of 2.99 acres in Survey No.127/1B of Therkkutheru Village, Melur Taluk, Madurai District, by enclosing relevant documents, within a period of four weeks from the date of receipt of a copy of this judgment and the said official, upon receipt of the same, is directed to consider the said representation, on merits and in accordance with law and pass orders, within a further period of twelve weeks thereafter and communicate the decision taken, to the appellant/writ petitioner.

15. The Writ Appeal stands disposed of accordingly. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar



To

1. The Secretary to Government,
Revenue Department,
Government of Tamil Nadu,
Chennai - 600 009.

2. The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
SIDCO Industrial Estate, Kappalur,
Thirumangalam Taluk, Thirumangalam Road,
Madurai - 625 008.

3. The Commissioner,
Land Administration,
Chepauk, Chennai - 600 005.

4. The Collector of Madurai,
at Madurai.

5. The Tahsildar,
Melur Taluk, Melur.

6. The Revenue Inspector,
Melur.

+ 1 CC TO Mr.M.V.VENKATASESHAN, ADVOCATE IN SR No. 48124
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 48520

PM

TE/SKN-RSK/SAR-1 : 23/02/2018 : 5P/9C

W.A. (MD) No. 1483 of 2017
13.02.2018