

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2019

CORAM

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

W.P. 24567 of 2006

and

M.P. 1 of 2006

The Diocese of Tanjore Society,
rep. by its Secretary

Rev. Fr. John Joseph Sundaram,
residing at Bishop's House,
P.B. No.204, Thanjavur-613 007.

Thanjavur District. Petitioner

Vs

1. The Secretary to Government,
Revenue Department,
Secretariat, Fort St. George,
Chennai-600 009.

2. Gunasekaran,
S/o. M.Rengasamy,
Kallar Street, Punavasal,
Pattukkottai, Thanjavur Dt.

R2 impleaded vide order
dated 24.07.2019 made in
M.P. No.1 of 2005

... Respondents

PRAYER : Writ Petition filed under Article 226 of the
Constitution of India, praying to issue a Writ of Certiorari, to
call for the records of the 1st respondent herein pertaining to
G.O. (S) No.445, and to quash the order passed therein dated
14.07.2006.

For Petitioner : Mr.S.V.Jayaraman, Sr. Adv.
for Mr.R.Agilesh

For Respondents : Mr.J.Ramesh,
Addl. Govt. Pleader for R1

O R D E R

This Writ Petition has been filed challenging the impugned order of the 1st respondent pertaining to G.O. (S) No.445, dated 14.07.2006 and to quash the same.

2. The petitioner is the Secretary of the Diocese of Tanjore Society and the said society is registered under the Societies registration Act XXI of 1860. The object of the society is to promote the spiritual, educational, industrial, technical or agricultural and other interests of primarily the members of the Catholic Community, but members of the other communities of the said Diocese of Thanjavur Society are not excluded in the places noted above including all the religious, charitable, benevolent and eleemosynary works of the said Diocese in the said places. In pursuance of the said object, the society is rendering service to the society as per the memorandum and byelaws. Further, about 40 years ago, two warring groups in the remote village of Punavasal were involved in a bitter rivalry in encroaching upon and taking illegal possession of the Government poramboke lands. In course of time, the rivalry developed into a legal battle and finally ended when some sensible people suggested to approach the authorities with the request to start a high school in the said place. In order to prevail good sense upon them, the Bishop of Thanjavur has approached the authority with the above request and the Bishop of Thanjavur took up daring steps on launching this new venture solely with the motive of taking education, where it is most needed remote village. With the cooperation of the villagers, the Bishop of Thanjavur took steps for starting the school. Accordingly, he has made a request to the Government for allotment of lands for construction of high school at free of cost. Thereafter, the Government was pleased to consider favourably the request of the Bishop and assigned the lands measuring a total area of 13.47 acres vide G.O.Ms.No.1173, dated 21.04.1971 on the recommendation of the Board of Revenue, Survey No.499 measuring 4.55 acres and Survey No.501 measuring 4.90 acrs in Punavasal Village, Pattukkottai Taluk, Thanjavur was assigned to the Bishop of Thanjavur and the President of Diocese of Thanjavur society for the construction of high school and orphanage at free of land value and assessment subject to the condition under B.S.O. 24. In the said G.O., the Government also directed that the construction of the buildings to the High School and Orphanage shall be completed within one year from the date of grant. Thereafter, after getting assignment of lands, the high school was started functioning in July 1970 itself and permanent building for the school was completed in the year October 1970 and the orphanage started functioning in the year 1971 in Survey No.499 and these two buildings were constructed in the

above said place and the said buildings are more than sufficient for accommodating the small number of students in the initial stage. Thereafter, the students steadily increased over the years and at the relevant point of time, 2000 students were studied in the school and the school administration considered the need of playground for the benefit of the students. Accordingly, the other portion of the land was converted as a playground and planted up coconut trees in and around the vacant area.

3. While being so, the popularity, which the petitioner school enjoys in the Educational District has drawn the attention of Director of School Education, Chennai, who has invited the petitioner to submit proposals for starting a Technical wing in the Higher Secondary Sections promising financial grant from the Central Government. Accordingly, the petitioner has submitted a proposal in the prescribed form for getting the favourable reply. According to the petitioner, there is no violation of the condition imposed while assigning the said lands. However, there was a civil dispute pending before this Court in S.A.No.1612 of 2004 arising out of O.S.No.54 of 1998 filed by Sowrinayagam and Royappa against the petitioner in connection with Survey No.501 pertaining to certain right of pathway measuring about 0.15 acres. While so, the persons, who were inimical to the petitioner seemed to have moved the authorities concerned for resumption of Survey Nos.499 and 501 on the alleged ground that the petitioner has not complied with the condition. Accordingly, the respondent has issued a show cause notice dated 02.11.2004 calling upon the petitioner to show cause as to why 4.75 acres in Survey No.501 after excluding 0.15 acres should not be recovered. After adjudication, the Government passed the impugned G.O. (s) No.445, Revenue Department, dated 14.07.2006 rejecting the petitioner's objections and directed resumption of 4.75 acres in Survey No.501. Against the impugned Government Order, the present Writ Petition has been filed by the petitioner.

4. Mr.S.V.Jayaraman, learned Senior Counsel appearing for the petitioner would submit that the petitioner has made a request to the Government for assigning the lands in favour of the petitioner school in order to achieve the object of starting a school in a remote village, and accordingly, the Government has kind enough to consider the request of the people of locality has allotted the land in favour of the petitioner at free of land value in order to start a school for promoting the educational facilities in the remote village. Though the land was assigned in the year 1970, immediately, thereafter, within one year as per the condition imposed in the Government Order, the school was started and large number of students, who are residing in and around the area were benefited. Due to some

inimical terms, some local persons pursued the complaints, thereby the Government Order in G.O. (Ms) No. 445 dated 14.07.2006 was issued. At present, nearly 2000 students are studying in the said school and the land assigned in Survey No.501 is utilised for playground. The learned senior counsel has further submitted that the impugned order was passed on the ground that the income generated in the agricultural land in Survey No.501 are used for Orphanage and school purpose instead of Government purpose. Hence, if the said Government Order is given effect, large number of school students get affected. Therefore, this Court may remand back the matter to the authorities for fresh consideration.

5. Mr.J.Ramesh, learned Addl. Government Pleader appearing for the 1st respondent has reiterated the counter affidavit filed by the 1st respondent and he would submit that initially, the Government has passed the Government Order assigning the land measuring an extent of 9.45 acres in favour of the petitioner at free of cost for the purpose of constructing high school and orphanage, and after assignment of lands, the school was constructed in 4.55 acres in Survey No.499, and in another Survey No.501, one part of extent of land remained as pathway, but the remaining extent of 4.75 acres in Survey No.501 is used as coconut thoppu without constructing the school buildings and orphanage as prescribed in the G.O. (Ms) No.1173, Revenue Department, dated 21.04.1971, which is violation of the Government Order. Hence, the Government has considered the application made against the petitioner school and ordered for resumption of 4.75 acres in Survey No.501, which is perfectly valid one and the income derived from the thoppu is converted into school purpose, which is against the condition imposed in the above said G.O. issued in the year 1971. Further, the Government has powers to resume the land as per the Revenue Standing Orders 24(6). Accordingly, he prayed to pass appropriate orders.

6. On considering the facts and circumstances, it is seen that the petitioner has assigned the land at free of cost in Survey Nos. 499 and 501, an extent of 9.45 acres. However, it is an undisputed fact that 4.55 acres in Survey No. 499 was used by the petitioner for the construction of school and orphanage. The main allegation against the petitioner is that he has not used the land to an extent of 4.75 acres in Survey No.501. However, the learned senior counsel appearing for the petitioner has contended before this Court that apart from the construction of the school, the remaining area is used as a playground for the purpose of school students. On perusal of the impugned order, it appears that the land assigned in the remote village in Survey No.501 is now recently developed as a playground. Therefore, I am inclined to remand back the matter for fresh consideration.

Accordingly, the impugned order passed by the 1st respondent passed in G.O. (S) No. 445 is set aside. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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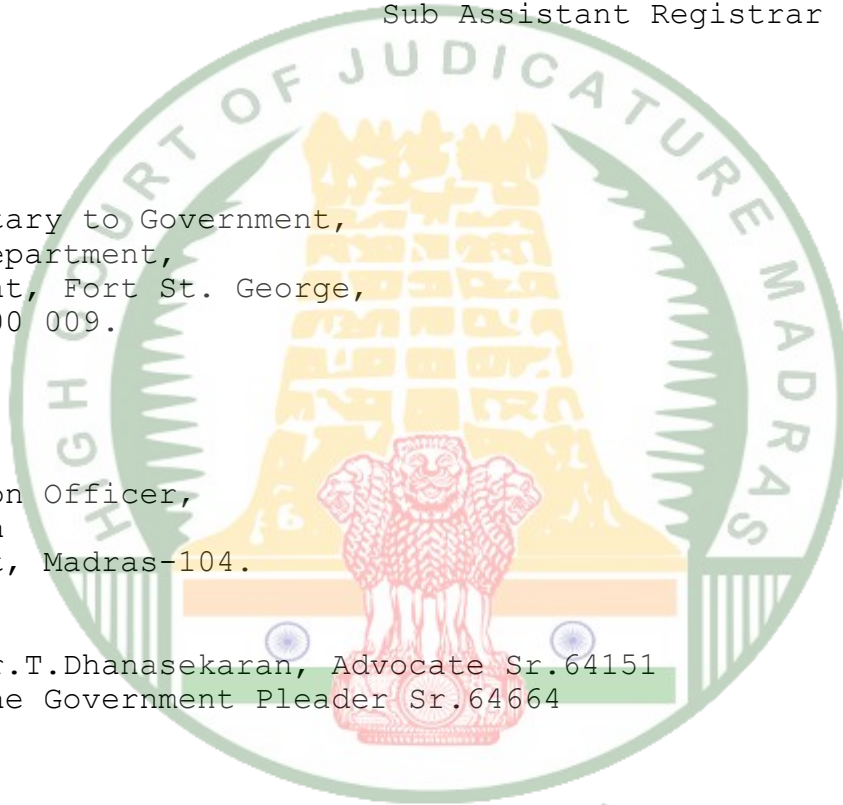
To

The Secretary to Government,
Revenue Department,
Secretariat, Fort St. George,
Chennai-600 009.

copy to

The Section Officer,
ER Section
High Court, Madras-104.

+1cc to Mr.T.Dhanasekaran, Advocate Sr.64151
+1cc to the Government Pleader Sr.64664



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and
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