

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :02.01.2019
CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No.15221 of 2004

and

W.P.M.P.No.18077 of 2004 and W.M.P.No.3226 of 2017

Dharmamurthi Rao Bahadur Calavala
Cunnan Chetty's Hindu College
Pattabiram, Chennai - 72.
Rep.by its Honorary Secretary
Mr.M.Venkatesa Perumal

..Petitioner

vs

1.The State of Tamilnadu
Rep.by The Secretary
Revenue Department
Fort St.George
Chennai - 600 009.

2.The State of Tamil Nadu
Rep.by The Special Commissioner
Land Administration
Chennai - 600 005.

3.The District Collector
Tiruvallur District.
Tiruvallur.

4.The District Revenue Officer
Thiruvallur
Thiruvallur District.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for all the records pertaining to the lands situate in Survey No.492/A1 of Thandurai Village, Poonamalle Circle, Thiruvallur Taluk and District and concerned in G.O.No.233 dated 11.05.2004 issued by the Secretary, Revenue Department, State of Tamilnadu the First Respondent and quash the G.O.233 dated 11.05.2004.

For Petitioner : Mr.R.S.Jeevarathanam

For Respondents : Mr.Akhil Akbar Ali, GA

O R D E R

The Government order passed in G.O.No.233, Revenue Department, dated 11.05.2004 is under challenge in the present writ petition.

2.The learned Senior Counsel appearing on behalf of the writ petitioner states that Dharmamurthi Rao Bahadur Calavala Cunnan Chetty's Hindu College is a public Trust created long back and running an educational institution for the benefit of the people of that locality. The College is utilizing the land allotted to the writ petitioner for the past many years. The original order was passed allotting the land measuring an extent of 21.52 Acres in S.No.492/1 at Thanduri Village, Sriperumbudur Taluk, at free of cost. Subsequently, the writ petitioner has paid the land cost as applicable. However, the order impugned states that an excess land was allotted in favour of the writ petitioner and the writ petitioner as of now is utilizing the land to an extent of 10.510 Acres and the remaining lands are to be declared as excess. Treating the land, which is not utilized by the College as excess land, the Government passed an order for restoration of the land for public purposes and for utilization of other Government schemes. The said Government order is under challenge.

3.The learned Senior counsel made a submission that no notice or opportunity was provided to the writ petitioner before issuing the impugned order by the 1st respondent. The learned Senior counsel is not disputing the point that the excess lands can be restored by the Government for implementation of other policies or schemes. However, the writ petitioner is entitled for an opportunity to explain their stand before the competent authorities.

4.In view of the submission made, this Court is of an opinion that the case deserves to be remanded for reconsideration and for passing orders.

5.It is needless to state that if at all vast extent of land is allotted and the educational institutions is functioning in 10.510 Acres, then the Government is empowered to restore the remaining lands, which all are not in use by the educational institution.

6.This being the factum of the case, the following orders are passed:

(i) The 1st respondent is directed to issue a notice to the writ petitioner, setting out the facts and details within a period of eight weeks from the date of receipt of a copy of this order.

(ii) On receipt of the notice, the writ petitioner shall submit their explanations along with the documents, if any, within a period of four weeks from the date of receipt of a copy of the notice issued by the 1st respondent. Thereafter, the 1st respondent shall conduct an enquiry by affording opportunity to all the parties concerned and pass orders on merits and in accordance with law within a period of twelve weeks thereafter.

7. With these directions, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary
Revenue Department
Fort St. George
Chennai - 600 009.
2. The Special Commissioner
Land Administration
Chennai - 600 005.
3. The District Collector
Tiruvallur District.
Tiruvallur.
4. The District Revenue Officer
Tiruvallur
Tiruvallur District.

+1cc to Mr. Madhuri Donti Reddy, Advocate, S.R.No. 242
+1cc to the Government Pleader, S.R.No. 1037

W.P.No.15221 of 2004

NM(CO)
GN(30/01/2019)