

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 5/2/2019

C O R A M

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

Writ Petition No.2887 of 2019

Y. Md.Mushtaq

... Petitioner

Vs

1. The Collector
Chennai District
Singaravelar Maligai
Rajaji Salai
Chennai 600 001.
2. The Commissioner
Corporation of Chennai
Rippon Buildings
Chennai 600 003.
3. The District Revenue Officer
Singaravelar Maligai
Rajaji Salai
Chennai 600 001.
4. The Revenue Divisional Officer
South Chennai Revenue Division
Guindy
Chennai 600 032.
5. The Tahsildar
Mylapore - Triplicane Taluk
Greenways Road
Chennai 600 028.
6. The Secretary
The Ameerun Nisa Begun Sahiba's Endowments
New No.165 Bharathi Salai
Triplicane
Chennai 600 005.

...

Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the second respondent to consider the petitioner's representation dated 11/10/2018 and take necessary action against the sixth respondent for the crime of fabricating the revenue records with the help of the revenue official for wrongful gain and restore the lands belong to the Corporation of Chennai, in accordance with law.

For petitioner ... Mr.R.Narendran

For respondents ... Mr.Akhil Akbar Ali
Government Advocate
for R.R.1, 3 to 5
Mr.K.Soundararajan
Standing Counsel for R.2.
R-6 NA

O R D E R

(Order of the Court was made by S.Manikumar,J)

Claiming himself to be a public interest litigant, Mr.Y.Md.Mushtaq, has filed the instant writ petition, for a mandamus, directing the second respondent, to consider the petitioner's representation, dated 11/10/2018 and to take necessary action against the sixth respondent, for the crime of fabricating revenue records, with the help of the revenue officials, for wrongful gain and to restore the lands belonging to the Corporation of Chennai, in accordance with law.

2. Short facts are as hereunder:-

. Petitioner has contended that Ameerunnisa Begum Sahiba Endowment, Triplicane, has claimed that as per the alleged scheme decree, passed in C.S.No.196 of 1913, property mentioned in O.S.No.329 and Rs.No.188, 189/1, 190-199, 201-203, 209,211, 214, 228/1, 2,384/2, 386, 389/2, 390/1, 390/3, 390/6 and 390/9 belongs to the endowment. According to the petitioner, the endowment has not filed any single piece of evidence to show that the endowment is the owner of the premises, except an order said to have been passed, in a Probate proceedings, in C.S.No.1585/1861, based on a will and apart from that reliance has been on the Scheme decree, made in C.S.No.196/1913, but there is no schedule, in the alleged will, said to have been executed by one Ameerunnisa Begum, in the year 1837 and no order of grant probate has been filed to show that the properties and documents, pertaining to the properties. Likewise, the scheme decree said to have been passed in C.S.No.196/1913, does not

contain the schedule of properties and also no documents to support that the properties owned by the petitioner Trust were filed. There is no document, to substantiate the claim of the wakf that the property is part of O.S.No.329.

3. Petitioner has sent a petition, under RTI, seeking for the details of wakf lands, situated within the jurisdiction of Mylapore-Triplicane Taluk. Vide letter, dated 7/2/2015, the Public Information Officer/Hq.Dy.Tahsildar, replied that the lands said to be owned by Ameerunnisha Begum Sahiba Endowment. The said information is contradictory to the earlier information furnished.

4. According to the petitioner, since it is a clear case of fabrication of Government records, on 12/9/2018, the petitioner sent a complaint to the Collector, Chennai District, first respondent, against the assignment of S.Nos., pertaining to the property belonging to Chennai Corporation, to and in favour of Ameerunnisha Begum Trust, sale of Corporation land to third parties by the Trust and requested to take action. On 11/10/2018, the petitioner sent a complaint, to the second respondent, intimating about the land grabbing of the Corporation land by the sixth respondent, and sale of portions of the said lands made.

5. Eventhough the District Revenue Officer, Chennai, third respondent has sent a communication, to the Revenue Divisional Officer, South Chennai, Revenue Division, fourth respondent, to take action in accordance with law and rules, no action was taken. Hence the petitioner has come forward with the instant writ petition for the relief stated supra.

6. Heard Mr.R.Narendran, learned counsel for the petitioner, Mr.Akhi Akbar Ali, learned Government Advocate for the respondents 1, 3 to 5 and Mr.K.Soundararajan, learned Standing Counsel for the second respondent and also perused the materials available on record.

7. Supporting the prayer sought for, learned counsel for the petitioner, invited the attention of this Court to the scheme decree, made in C.S.No.196 of 1913, dated 19th July 2015, between 1. Abdur Razack Sahib and another/plaintiffs Vs. 1. Mahomed Ghouse Sahib Amin and Daroga of the Amirunnisa Begam Sahiba's Mosque and another/defendants.

8. Further, inviting the attention of this Court, to the information furnished by the Public Information Officer, Head Quarters Deputy Tahsildar Office, Mylapore Taluk, Chennai, in letters, dated 7/2/2015 and 13/11/2017, learned counsel for the petitioner submitted that the lands in some of the S.Nos., are not owned by the said Trust, but by a clear fabrication of records, by the revenue officials, they are shown to be owned by the said Trust. Therefore, when the petitioner made a complaint, dated 11/10/2018, to the Commissioner, Corporation of Chennai, Chennai, second respondent herein, informing him that there is a fabrication of Government records by the endowment officials, with the help of revenue officials, action ought to have been taken, and thus, the instant writ petition is filed for the prayer, as stated supra.

9. Schedule to the decree, in C.S.No.1585/1861, dated 12/6/1857, does not contain the details of survey numbers and door numbers. When an application, dated 1/12/2014, was made by the petitioner, to the Public Information Officer, Tahsildar Office, Triplicane, Chennai, a reply, dated 1/2/2015, has been given, as hereunder:-

R.C.No.B3/15253/2014, dated 1/2/2015

Sir/Madam

Sub: RTI Act 2005 - Chennai District
- Mylapore Taluk - Thiruvallikeni Vilalge -
S.Nos.129-191/1-188/199/1-195-204 and 212/1
lands the details of owners and on which
document basis given - providing information -
reg.

Ref: Your letter/petition dated
1/12/2014.

The following information are given for your letter in reference cited under RTI Act, Chennai District, Mylapore Taluk, Thiruvallikeni Village, Town S.Numbers S.Nos.129-191/1-188/199/1-195-04 and 212/1, the owners are the following persons as shown in this office permanent land register and shown in the annexure. Further, it is recorded in this office permanent land register as for the lands in S.Nos.195/1, 196, 197/1 and 212/1, Amirunnisha Begam Shaiba (mosque) endowment as the owner. Further, the permanent land register was prepared in 1952. It is

informed that the previous publications of the registers are not available in this office.

Sd/-

Public Information Officer
Head Quarters Deputy Tahsildar Office
Mylapore Taluk
Chennai 600 028.

Enclosure

S. No.	Survey No.	Extent	Register Holder
1	129/1	0.05.65.0	Trustees to Panchaiyappa charities, Executors to the estate of the Late Vadamalai gramani
2	195/1	0.09.1168	Ameerunnisa Begam Sahiba endowment
3	196	0.01.2057	Ameerunnisa Begam Sahiba endowment
4	197/1	0.12-1707	Ameerunnisa Begam Sahiba endowment
5	198	0.01.637	Corporation private
6	199	0.00.2395	Corporation private
7	200	0.05.385	Corporation private
8	201/1	0.13.1174	Corporation private
9	202	0.00.1788	Corporation private
10	203/1	0.07.1916	Corporation private
11	204	0.00.1340	Corporation street
12	212/1	0.07.2269	Ameerunnisa Begam Sahiba endowment

10. Copy of the proceeding, in R.C.No.B3/1767/00, of the Tahsildar, Triplicane, dated 13/11/2007, addressed to the District Collector, Chennai, said to have been obtained, under the Right to Information Act, 2005, containing the details of the properties, under the control of the Wakf Board, which was filled in Form Nos.1 to 5. In as much as the difference in the name of the registered holder, pertaining to S.Nos.199, 201/1, 202 and 203/1, petitioner has contended that the revenue authorities have committed a crime, in fabricating documents.

11. After setting out the details of the scheme decree, in C.S.No.196 of 1913, that the same does not contain a schedule of properties and that there were no documents to prove that the properties are owned by the Trust, the petitioner has stated that it is a case of fabrication of Government records by the endowment, with the help of some revenue officials and that some other lands have been sold, that therefore, necessary action has to be taken against the revenue officials for wrongful gain and restore the lands belong to the Corporation of Chennai.

12. Sum and substance of the petitioner is that a crime has been committed by revenue officials and the Trust. Crime is a matter for investigation. As per the Code of Criminal Procedure, any person can report a crime to the Police and if no action is taken, approach the competent criminal Court. Writ jurisdiction is an extraordinary remedy and when there is an alternate and effective remedy, Courts should refrain from issuing a mandamus for investigation.

13. For the above said reasons, prayer sought for in the instant writ petition cannot be granted and accordingly, the same is dismissed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

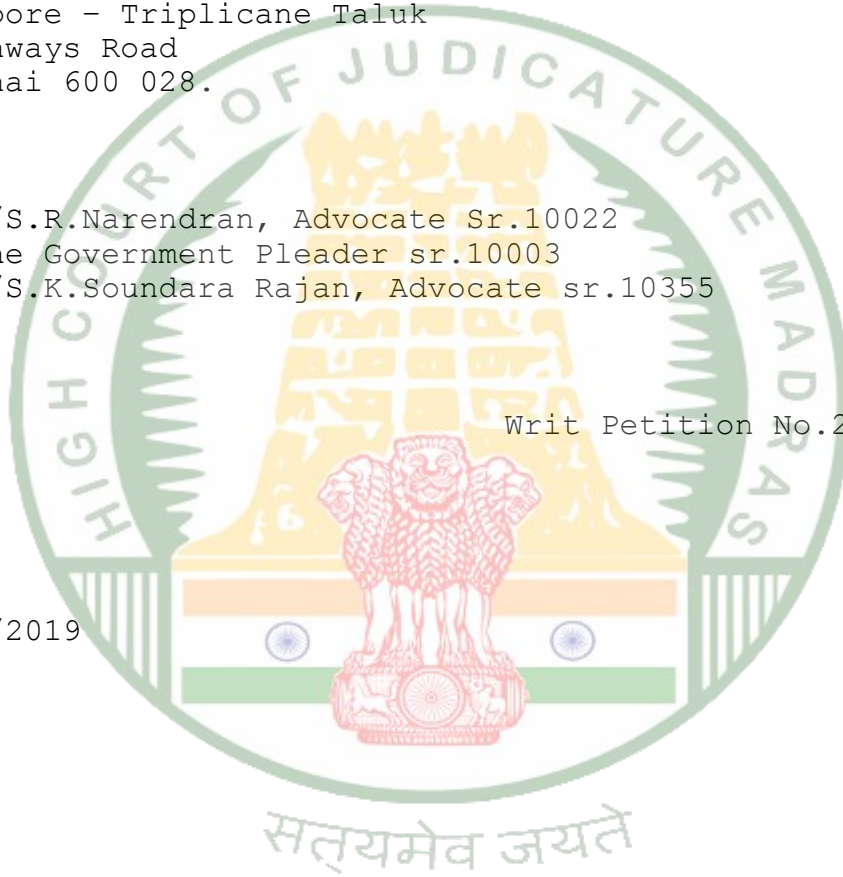
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+1cc to M/S.R.Narendran, Advocate Sr.10022
+1cc to the Government Pleader sr.10003
+1cc to M/S.K.Soundara Rajan, Advocate sr.10355

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srg 03/04/2019



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