

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2019

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P.No.38293 of 2004
and
W.P.M.P.No.45823 of 2004

The Board of Trustees of
P.T.Lee Chengalvaraya Naicker Trust
Rep.by its Secretary
K.S.Govindasamy
2-3, E.V.K.Sampath Salai,
Vepery, Chennai - 600 007. Petitioner

Vs.

1. The Government of Tamilnadu,
Rep.by its Secretary to Government,
Higher Education Department,
Fort St.George, Chennai - 600 009.
2. The Secretary to Government,
Revenue Department,
Fort St.George, Chennai -9.
3. The Special Commissioner &
Commissioner of Land Administration,
Chepauk, Chennai - 5.
4. The Collector of Chennai,
Singaravelar Maligai,
Chennai - 1.
5. The Tahsildar,
Fort-Tondiarpet Taluk,
Chennai -3. Respondents

Prayer :

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned Ref.B2/01893/1993, dated 13.8.2004 received by the petitioner's Trust Office on 3.12.2004 for payment of Rs.1,00,16,605/- on the file of the fifth respondent, quash the same and forbear the fifth respondent from

initiating Revenue Recovery proceedings under the provisions of Tamilnadu Revenue Recovery Act in pursuant to the impugned notice issued by the fifth respondent to the petitioner's Trust.

For Petitioner : Mr.M.R.Jothimanian

For Respondents : Mr.I.Sathish
Additional Government Pleader

O R D E R

Heard Mr.M.R.Jothimanian, learned counsel for the petitioner, Mr.I.Sathish, learned Additional Government Pleader for the respondents and perused the materials available on record.

2. The petitioner has come forward with this writ petition for issuance of a writ of certiorarified mandamus, calling for the records relating to the impugned Ref.B2/01893/1993, dated 13.8.2004 and quash the same and consequently, forbearing the respondents from initiating Revenue Recovery proceedings against the petitioner pursuant to the order of the fifth respondent.

3. The case of the petitioner-Trust is that philanthropist P.T.Lee Chengalvaraya Naicker was a religious, charitable and social welfare minded person and possessed vast immovable properties. He executed a Will on 04.12.1870 and a Codicil on 20.4.1873, bequeathing the income derived from his estate for religious and charitable purposes. The testator formed a Trust for the achievement of laudable objects and entrusted the administration of the Trust after his lifetime to benevolent man Ma.Ra.Ra.Sri Pachaiyappa Mudaliar to manage the trust properties.

4. It is further stated that the Board of trustees of Pachaiyappa's Charities were managing the trust properties of P.T.Lee Chengalvaraya Naicker trusts. However, in December 2018, the State of Tamil Nadu have taken over the management of Pachaiyappa's Charities and other Charities under its control, including the P.T.Lee Chengalvaraya Naicker trust. Thereafter, in C.S.No.242 of 1986, this Court framed a Scheme Decree on 01.04.1999 and thereby, appointed and nominated nine reputed persons as trustees including the Chairman, who is a retired judge of this Court. The Board had assumed the office on 20.09.2002.

5. Mr.M.R.Jothimanian, learned counsel for the petitioner would submit that the land in S.No.734/4 situated at Veppery

village measuring an extent of 6 grounds and 1730 sq.ft was leased out to the petitioner-Trust in the year 1958. Though the original lease was for the period of five years, subsequently, it was renewed upto 14.07.1983. It is further stated that the Statue of P.T.Lee Chengalvarayar Naicker was erected in the said land and the same was inaugurated by the then Hon'ble Chief Minister of Tamil Nadu Mr.Kamaraj in the year 1963 and the remaining area has been maintained as a park.

6. The learned counsel for the petitioner would further submit that the impugned notice has been issued in violation of principles of natural justice, since no adequate opportunity was given to the petitioner-Trust before passing the order. It is further submitted that the present Chairman of P.T.Lee Chengalvaraya Naicker Trust, Hon'ble Mr.Justice S.Rajeswaran has sent a letter to the second respondent dated 13.11.2018, requesting him to permit the petitioner-trust to maintain the founder's Statue along with park located in R.S.No.734/4 at Veppery, Chennai. According to the learned counsel, the order impugned in this writ petition is to be set aside on the sole ground that no opportunity was given to the petitioner-Trust and a direction may be issued to the second respondent to consider the representation of the petitioner in accordance with law.

7. Per contra, Mr.I.Sathish, learned Additional Government Pleader appearing for the respondents would submit that the said land is situated in prime area in Chennai and the arrears so far accumulated is more than two crores. It is true that the land is not put to commercial use and hence, the second respondent is ready to consider the representation of the petitioner.

8. In reply, the learned counsel for the petitioner would further submit that the respondents themselves admit that the entire extent of land has not been used for commercial purpose and as the petitioner had established Park in the land, a suitable directions may be issued.

9. In the case on hand, it is not in dispute that the land in R.S.No.734/4 measuring an extent of 6 grounds and 1730 sq.ft belong to the Government and it has been leased out to the Pachaiyappa's Trust in the year 1958. Though, the petitioner-Trust was managed by the Pachaiyappa's Trust till 1983, as per the Scheme Decree in C.S.No.242 of 1986, the Trust is being maintained by the Board of trustees appointed by the High Court.

10. On a perusal of the impugned order, it is seen that no opportunity was given to the petitioner-Trust before passing the order. Further, the relevant factor that the land was admittedly not put to commercial use has not been taken note of by the

authorities. Therefore, it would be appropriate to remand the matter for fresh consideration.

11. In that view, the order impugned in this writ petition is set aside and the case is remanded back to the second respondent, who shall consider the representation of the petitioner-Trust dated 13.11.2018 and pass orders afresh on merits and in accordance with law, after providing an opportunity to all the necessary parties. Accordingly, the writ petition is allowed. Till such time, the respondents shall not precipitate the issue. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
The Government of Tamilnadu,
Higher Education Department,
Fort St.George, Chennai - 600 009.
2. The Secretary to Government,
Revenue Department, Fort St.George, Chennai -9.
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Commissioner of Land Administration,
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4. The Collector of Chennai,
Singaravelar Maligai, Chennai - 1.
5. The Tahsildar,
Fort-Tondiarpet Taluk, Chennai -3.

+1cc to Mr.M.R.Jothimanian, Advocate, S.R.No.69272

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and

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MG(CO)

CS/25/10/2019