

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2019

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.9745 of 2009andWMP.No.23334 of 2019

Vasuvambal Educational and
Charitable Trust rep. by
its Managing Trustee,
No.28/12/4, Raja Nagar,
(Therthalu Nagar)
Kallakurichi 606 202
Villupuram District.

...Petitioner

Versus

- 1.The Land Commissioner,
Chepauk, Chennai -5.
- 2.The Revenue Divisional Officer,
Kallakurichi Division,
Kallakurichi.
- 3.Arunachalam Educational Trust,
No.20, Police Line Street,
Thiruvannainallur,
Villupuram District 607 208.

Cause title amended vide order dated
23.07.2019 made in WMP.No.3025 of
2017 in W.P.No.9745 of 2009 by MDIJ.

- 4.The State of Tamil Nadu,
Rep. by the Secretary to Government,
Revenue Department,
Fort St.George, Chennai - 9.

...Respondents

**R4 impleaded vide order dated
19.08.2019 made in WMP.No.23334
of 2019 in W.P.No.9745 of 2009 by
MDIJ.**

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari calling for the records of the 1st respondent in D1/R.P.15/2005 (L.Ref.) dated 17.2.2009 and quash the same.

For Petitioner : Mr.A.Sivaji

For Respondents : Mr.J.Ramesh
Additional Government Pleader

ORDER

The Charitable Trust has filed the present writ petition challenging the proceedings of the first respondent in D1/R.P.15/2005 (L.Ref.) dated 17.2.2009.

2.The Petitioner Trust is a registered Trust since 19.04.2004 and is providing education at the basic, elementary, secondary and higher secondary and college level etc. The Trust purchased an extent of 23.83 acres of land in various survey numbers at Alathur Village, Sankarapuram Taluk by a registered sale deed dated 11.02.2005 from the 3rd respondent Trust. Thereafter, the petitioner Trust applied for patta in its favor and the same was made by the revenue authorities. On 06.09.2005, the petitioner applied to the State Government through the 2nd respondent in the prescribed format under Section 37-B of the Tamil Nadu Land Reforms (Fixation of Ceiling of Lands) Act 1961. The 2nd respondent has also forwarded the same with necessary details to the State Government. On

07.12.2005, the petitioner applied to the All India Council for Technical Education, Southern Regional Office, Chennai along with application for the establishment of new institution. After receiving the application, the 2nd respondent pointed out certain deficiencies to be rectified. At that stage, the 2nd respondent passed an order dated 24.10.2005 that the lands acquired by the petitioner are ordered to be transferred to Government with effect from the date of acquisition by the Trust. Challenging the said order, the petitioner filed Revision Petition in R.P.No.15 of 2005 and an interim stay was granted in favour of the petitioner and thereafter, the said revision petition was dismissed by the 1st respondent on 17.02.2009. Aggrieved by the same, the petitioner has filed the present petition.

3. Heard Mr.A.Sivaji, learned counsel for the petitioner and Mr.J.Ramesh, learned Additional Government Pleader for respondents 1 and 2.

4. While entertaining the writ petition, this Court granted interim stay and the same was continued till date.

5. The learned counsel for the petitioner submitted that the Petitioner Trust was created on 19.04.2004 and the lands in question were purchased by the petitioner by registered sale deed dated 11.02.2005 for

valid consideration without notice of the proceedings pending against the 3rd respondent. During 2010 amendment was brought to Tamil Nadu Act 58 of 1961 and as per this 2010 Amendment, the application for the petitioner pending before the Government from 06.09.2005 is to be considered. He further submitted that it would suffice if a direction is issued to the 4th respondent to consider the petitioner's application and pass orders.

6. The learned Government Advocate appearing for the state would submit that the petitioner has not attached the order of the 1st respondent along with the application. If any direction is issued by this Court, the 4th respondent will consider and pass orders.

7. No doubt the purchase was happened under Section 20A of the Act and any purchase after 01.03.1972 is invalid one. However, in the year 2010, an amendment was made to the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Rules. As per the amendment, the petitioner Trust may occupy the land only after the permission of the Government. On an earlier occasion, the vendor Trust filed a revision petition in R.P.No.15 of 2005 before the 1st respondent and the said revision petition was dismissed by an order dated 17.02.2009. On 11.02.2005, the petitioner purchased the very same property from the 3rd respondent and got patta transferred in its favour. Accordingly, on 06.09.2005, the petitioner made an application

under Section 37 B of the Act and that application was not considered till date instead the 1st respondent passed the present impugned order dated 17.02.2009.

8.In view of the above submissions, the prayer sought for by the petitioner cannot be granted. However, considering the fact that the petitioner's application dated 06.09.2005 is pending before the Government, this Court is inclined to issue direction to the 4th respondent viz.,The State of Tamil Nadu, Revenue Department, Chennai, to consider the petitioner's application dated 06.09.2005 and pass orders on merits and in accordance with law, as expeditiously as possible.

9.Accordingly, this writ petition stands dismissed. No costs. Connected miscellaneous petitions are also closed.

सत्यमेव जयते

19.08.2019

Index : Yes/No
Internet : Yes/No
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M.DHANDAPANI,J.

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To

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