

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 14.06.2019

CORAM
THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.9103 of 2010
and
M.P.No.1 of 2011

Aowaie Free Education Public Service Trust,
Rep. by Founders President,
Dr.Pharanie Chithraa.S.
No.107A, Renukamman 4th Street,
Kakkanji Colony, A Block,
Vysarpadi, Chennai - 39.

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by Secretary to Government,
Social Welfare Department,
Fort St.George,
Chennai - 600 009.
2. The District Collector (Incharge),
O/o. the Chennai District cum
District Revenue Officer,
Chennai.
3. The Commissioner,
Corporation of Chennai,
Chennai - 600 003.
4. The Tahsildar,
Permabur Taluk,
Chennai.

... Respondents

सत्यमेव जयते

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining order in O6/25944/2009 dated 25.02.2010 passed by the 2nd respondent and quash the same as illegal, improper, arbitrary and total non application of mind against the principles of natural justice and thereby allot the property situated at Plot No.162, Renukamman 4th Street, Kakkanji Colony, 'A' Block Vysarpadi, Chennai - 39 in Survey No.786/2 to the petitioner's trust for lease pursuant to the G.O.No.182 dated 04.12.2002 issued by the Government of Tamil Nadu.

For Petitioner : Mr.A.Rajeshkanna

For R1, R2 & R4 : Mr.R.P.Prathap Singh

For R3 : Mr.T.C.Gopalakrishnan
Standing Counsel

ORDER

This Writ Petition has been filed seeking to quash the order passed by the second respondent in O6/25944/2009 dated 25.02.2010 and to allot the property situated at Plot No.162, Renukamman 4th Street, Kakkanji Colony, 'A' Block Vysarpadi, Chennai - 39 in Survey No.786/2 to the petitioner's trust for lease pursuant to the G.O.No.182 dated 04.12.2002 issued by the Government of Tamil Nadu.

2. The petitioner is the founder and president of "Aowaie Free Education Public Service Trust" which is registered in Document No.32/2002 dated 07.03.2002 under Indian Trust Act 1882. The petitioner's father Late Dr.Subramaniam, eminent Siddha Doctor, Social Worker Educationalist Philanthropist, who along with his mother Smt.Kanthamani, were doing the social service for more than a period of 32 years under the name of Avvai Arivagam. The said trust has been carrying out various social activities as follows:-

- a.Providing free education clothes accommodation for the poor needy children.
- b.Home for the aged persons both female and male.
- c.Rehabilitation centres for physically disabled and mentally handicapped children.
- d.Free Eye Camps and Blood Camp, Dental Camp, Siddha Medicine Explanation Camp.
- e.Self employment programs for widows.

3. The petitioner submitted that their trust has been running free school at No.107-A, Renukamman 4th Street, Kakkanji Nagar, 'A' Block, Vysarpadi, Chennai - 39 and due to insufficient accommodation facility, only 120 students are studying in their school at present. Since the petitioner wanted to extend her trust school, she approached the respondent to allot the land situated at Plot No.162, Renukamman 4th Street, Kakkanji Colony, 'A' Block, Vysarpadi, Chennai - 39 in Survey No.786/2, which is adjacent to her trust. The said land was classified as "Poramboke Land" and which was announced by the Government as

"unobjectionable land" and eligible for patta. Accordingly, the neighbours of the petitioner were issued patta for their respective property. Since the petitioner is in need of the said land for her free school, she approached the Revenue Authorities to allot the same in favour of her trust. But, they replied that the said land is absolutely belongs to the third respondent. Hence, she approached the third respondent requesting to allot the same in favour of her trust on lease basis. But, the third respondent made her to run from pillar to post and gave an evasive reply.

4. The petitioner further submitted that even the Government of Tamil Nadu had issued a G.O.No.182 dated 04.12.2002 in this regard stating that the persons who are indulging in social welfare activities like providing free accommodation food to orphanage children, aged persons and disabled persons, the Government will provide land at free of cost to encourage their social work. But, the petitioner's trust have not been provided with the said land though they are ready to take over the same on lease basis and ready to give lease amount for the same.

5. The petitioner also submitted that there are 120 children including orphanager's who are studying in their school at present and they have been providing with noon meal, clothes, books and uniforms. Their main objective is to educate each and every children of their trust, and the reason for seeking the said land is for the purpose of extending their trust for providing free education and accommodation facility to their children. In this regard, the petitioner sent a representation to the respondents on 05.06.2009, but they never come forward to consider her request. Hence, she approached this Court by filing a Writ Petition in W.P.No.12130/2009 seeking for a direction, directing the respondents to consider her representation dated 05.06.2009 and to allot the said land in favour of her trust on lease basis pursuant to the G.O.No.182 dated 04.12.2002. This Court, by order dated 14.07.2009, directed the second respondent to consider the petitioner's representation dated 05.06.2009 and pass appropriate orders within a period of 12 weeks from the date of receipt of the order, after affording opportunity to all the parties concerned.

6. The petitioner further submitted that despite the order of this Court in W.P.No.12130 of 2009, the second respondent did not come forward to consider her representation, hence, she issued a contempt notice through her counsel on 29.12.2009. However, the second respondent has not come forward to comply the order of this Court dated 14.07.2009 and therefore, she filed a Contempt Petition in Contempt Petition No.149/2010 against the second respondent for his willful disobedience of the order in W.P.No.12130/2009 dated 14.07.2009, which is

pending on the file of this Court. During the pendency of the Contempt Petition, the second respondent in order to escape from the contempt proceedings, purposely passed the impugned order by proceedings in O6/25944/2009 dated 25.02.2010 and rejected the request of the petitioner without affording sufficient opportunity to her. Hence, aggrieved by the said order dated 25.02.2010, the petitioner has filed this Writ Petition.

7. Denying the allegations of the petitioner, the fourth respondent has filed a counter affidavit, wherein, it has been submitted that the Sub-Inspector of Survey had inspected the land sought for by the petitioner and had reported that the said Plot No.162, Renukamman 4th Street, Kakkanji Colony, 'A' Block, is not comprised in R.S.No.786/2 of Perambur Village and it is actually comprised in R.S.No.779/23 and the same has been registered in the Revenue Records (Permanent Land Register for Government Lands) as follows :

Village	: Perambur
Block No	: 42
R.S.No	: 779/23
Extent	: Caw.Grd.Sq.feet 01 19 0386
Name of Occupier	: Public Works Department
Description of field	: Vyasarpadi irrigation tank and bund. The metalled road running below parallel to the bund has been sub - divided and registered as Corporation Public
Remarks	: Permission granted to the Corporation of Madras to sink two wells of 16 feet in diameter

8. The fourth respondent also submitted that the land required by the petitioner vests with Corporation of Chennai and the petitioner had already been informed by the District Revenue Officer, Chennai District, that the said land cannot be allowed to the trust on lease basis and it was already placed at the disposal of the Greater Chennai Corporation for a public purpose (i.e. for the purpose of construction of public convenience, and community hall). Therefore, sought for dismissal of this Writ Petition.

9. Heard the learned counsel for the petitioner and the learned counsel for the respondents and perused the materials available on record.

10. It is seen that the petitioner's trust has been running free school at No.107-A, Renukamman 4th Street, Kakkanji Nagar, 'A' Block, Vysarpadi, Chennai - 39 and due to insufficient accommodation facility, the petitioner had approached the respondents to allot the land situated at Plot No.162, Renukamman 4th Street, Kakkanji Colony, 'A' Block, Vysarpadi, Chennai - 39 in Survey No.786/2, in favour of her trust in order to extend the same. But, the respondents had rejected the request of the petitioner and therefore, the petitioner is before this Court.

11. On perusal of the impugned order dated 25.02.2010, it is categorically clear that the land sought for by the petitioner has been handed over to the Corporation of Chennai for a public purpose i.e. for the purpose of construction of public toilet and community hall, as per G.O.Ms.No.397 of the Revenue Department dated 07.07.2005, and therefore, the respondents have rejected the request of the petitioner for allotment of the land situated at Plot No.162, Renukamman 4th Street, Kakkanji Colony, 'A' Block, Vysarpadi, Chennai - 39 in Survey No.786/2, in favour of her trust on lease basis.

12. The photographs of the said land is also produced before this Court, which would show that there is a building which has been constructed in the portion of the land and it has not been utilised by the Corporation of Chennai, due to the pendency of this Writ Petition. It would also show that the remaining portion of the land is being used as dustbin by dumping Garbages by the local residents.

13. From the records, it is also seen that the petitioner has not produced any material to show that they are running free school to the General Public, adjacent to the said land and has also not produced any material to show that the land has been utilised for any other purpose.

14. In view of the above, this Court do not find any reason to interfere in the impugned order in 06/25944/2009 dated 25.02.2010 passed by the second respondent. Therefore, the petitioner's claim for allotment of the land situated at Plot No.162, Renukamman 4th Street, Kakkanji Colony, 'A' Block Vysarpadi, Chennai - 39 in Survey No.786/2, is rejected.

15. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Insp.Cell)

//True Copy//

raja

Sub Assistant Registrar

To

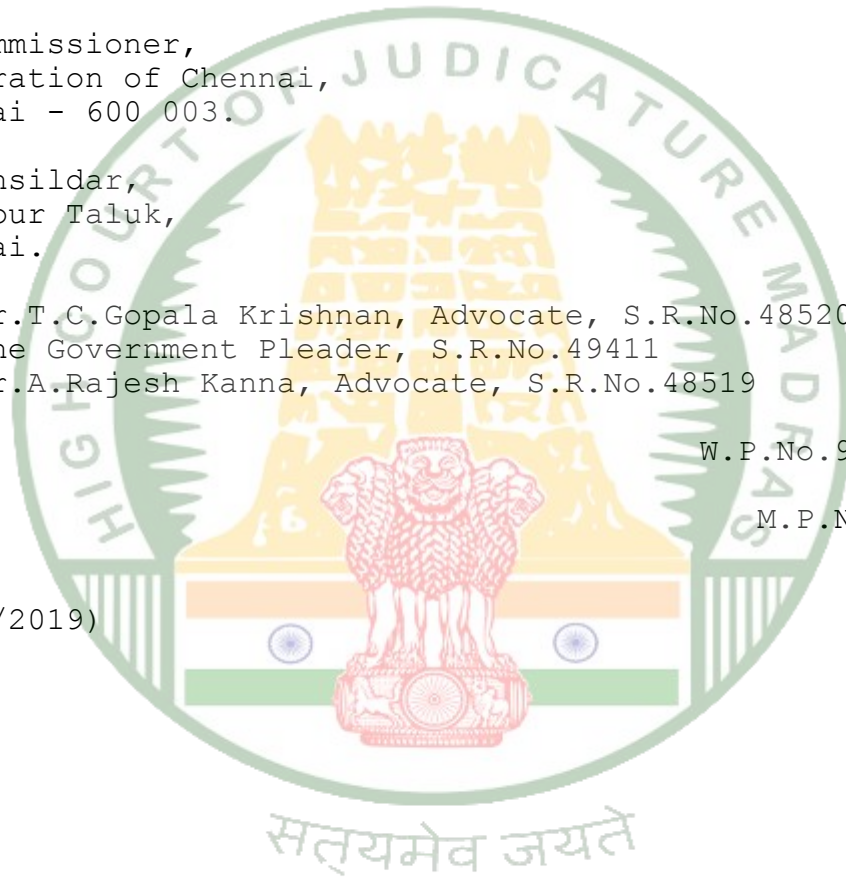
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+lcc to Mr.T.C.Gopala Krishnan, Advocate, S.R.No.48520
+lcc to the Government Pleader, S.R.No.49411
+lcc to Mr.A.Rajesh Kanna, Advocate, S.R.No.48519

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PP (CO)

RRS (17/07/2019)



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