

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR

and

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.14983 of 2019

and

WMP No.14934 of 2019

1. D.Moorthy

2. N.Mohan

3. G.Viswanathan

... Petitioners

Vs

1. The State of Tamilnadu,
represented by the Secretary to Government,
Revenue Department,
Fort St. George,
Chennai - 600 009.

2. The Secretary to Government,
Rural Development and
Panchayat Raj Department,
Fort St. George, Chennai - 600 009

3. The District Collector,
Dharmapuri District,
Dharmapuri.

4. The Block Development Officer,
Pennagaram,
Dharmapuri District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, issuance of a writ of mandamus, forbearing the respondents from constructing commercial complex / bus stand in the area meant for weekly sandy comprised in S.No.393, Sunjal Natham Village Panchayat, Eriyur, Pennagaram Taluk, Dharmapuri District.

For Petitioners : Mr.M.Muthappan

For Respondents : Mr.E.Manoharan,
Additional Government Pleader

O R D E R

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

Claiming to be public interest litigants,
petitioners, all residents of Eriyur Village, have sought
for issuance of a writ of mandamus, forbearing the

respondents viz., (i) the Secretary to the Government, State of Tamilnadu, Revenue Department, Chennai, (ii) the Secretary to the Government, Rural Development and Panchayat Raj Department, Chennai, (iii) the District Collector, Dharmapuri District and (iv) the Block Development Officer, Pennagaram, Dharmapuri District, from constructing commercial complex / bus stand in the area meant for weekly sandy comprised in S.No.393, Sunjal Natham Village Panchayat, Eriyur, Pennagaram Taluk, Dharmapuri District.

2. According to the petitioners, in the year 1960, the then Village President, Vice President and members of the Village Council purchased one acre of land in S.No.393 in Sunjal Natham Village, Eriyur, for the purpose of establishing weekly Sandy from the funds of Sunjal Natham Panchayat. This Weekly Sandy is very useful for the Villagers, Agriculturists to sell the produces like vegetables and also benefits to villagers to purchase of vegetables and cattle like lamb, cow, etc. This weekly Sandy was slowly developed and many traders are using this Sandy as a daily market also.

3. While so, the Government have taken steps to convert this area as a bus stand and shopping complex and laid foundation stone. There is absolutely no necessity to establish a bus stand in this area, because there are only 5 buses with single trip alone are coming to Eriyur. The other buses are passing through at the interval of 45 minutes to 1 hour 15 minutes, and that too, they would stop only for few seconds. Students of schools and colleges travel only through the private vehicles provided by the Institutions. There is absolutely no necessity to establish a bus stand in that area. There is an adjacent Government land, available for establishing bus stand.

4. According to the petitioner, there is no necessity to build a commercial complex in that area. The villagers of that area do not afford to occupy the commercial complex. Moreover the villagers in and around Eriyur, would not be in a position to sell their Agricultural produce directly to the public, if the weekly sandy is abolished. Hence, the petitioners on behalf of the public made a representation to all the official respondents including the Chief Secretary, Chief Minister's Grievance Cell requesting not to build a commercial complex in the weekly sandy area, by establishing the bus stand which would affect the small traders and Villagers, in and around the area. But there was no response from the respondents. It was reliably learned that the Government have awarded tender to build the commercial complex to the contractors and awaiting for the election result.

5. For the abovesaid reasons, petitioners have filed the instant public interest writ petition.

6. On 15.07.2019, when the matter came up for hearing, we passed the following order.

"On Instructions from the Block Development Officer, Pennagaram, Mr.E.Manoharan, learned Additional Government Pleader submitted that subject land has been classified as 'Shandy' in revenue records and local people use this 'Shandy'.

Government have proposed to construct a bus stand in this place with a building intended to be let out to those engaged in vending in the 'Shandy'. Above proposal is with the clearance of the Panchayat.

Learned AGP further submitted that written instructions are awaited.

Post on 15.07.2019, in the motion list "

7. Subsequently, on 15.07.2019, we passed the following order.

"Petitioner has sought for a writ of mandamus, forbearing the respondents from constructing commercial complex/bus stand, in the area meant for weekly sandy, comprised in S.No.393, Sunjal Natham Village Panchayat, Eriyur, Pennagaram Taluk, Dharmapuri District.

2. On instructions, Mr.E.Manoharan, learned Additional Government Pleader submitted that administrative/financial sanction, for construction of the commercial complex/bus stand, in S.No.393, Sunjal Natham Village Panchayat, Eriyur, Pennagaram Taluk, Dharmapuri District, has already been issued. Tender has been finalised and work order has been issued. Foundation stone has been laid. He further submitted that vendors in Shandi can also be accommodated, subject to the orders issued from time to time. Submission of the learned Additional Government Pleader is placed on record.

3. Post on 19/7/2019, in the motion list. In the meantime, Additional Government Pleader is directed to file an affidavit with supporting documents.

8. Today, when the matter came up for further hearing, on the basis of the counter affidavit filed by the Block Development Officer (B.P.), Pennagaram, 4th

respondent, Mr.E.Manoharan, learned Additional Government Pleader submitted that,

(i) the land in S.No.393, Sunjalnatham Village Panchayat, Eriyur, Pennagram, Dharmapuri, was purchased by the local village Panchayat in the year 1960 and from then it was used by the villagers as market on weekly basis.

(ii) During the financial year 2017-2018, the then lok sabha member and Central Minister for Health and Family Welfare, on 06.08.2017 has recommended for construction of a Bus stand, in Sunjalnatham Village Panchayat, Eriyur, Pennagaram, Dharmapuri, under the Lok-sabha member constituency development scheme, with an amount of Rs.25 lakh rupees and on 18.11.2017 the said amount was revised and such revision from 25 lakhs to 30 lakh rupees was communicated to the Project Director, Rural Development Authority, Dharmapuri.

(iii) Based on the above mentioned recommendation the Project Director, Rural Development, Dharmapuri issued an O.M. bearing Na.Ka.No.1559/2017/R4 dated 21.12.2017 for the development activities to be carried out in Dharmapuri District.

(iv) Vide Na.Ka.No.2561/2016/A3 dated 28.12.2017, the Block Development Officer, Pennagaram sent a communication to the Project Director, District Rural Development Authority, Dharmapuri, that there is sufficient place to complete this project and to grant administrative sanction with this regard.

(v) Based on the request made by the Block Development Officer, Pennagaram dated 28.12.2018, the District Collector, Dharmapuri in his proceedings vide Na.Ka.No.1559/2017/R4 dated 09.01.2018 has granted administrative sanction for Rs.30 Lakh rupees.

(vi) After the administrative sanction granted by the District Collector, Dharmapuri, the Block Development Officer, Pennagaram Block has issued tender notice dated 14.03.2018 to all the interested persons to participate in the Tender on or before 20.03.2018 to send the bid amount in a sealed cover. Based on the abovesaid tender notice, a company viz., O.L.B. and Co., has been awarded tender on 21.03.2018, for a period of 10 months for the completion of project.

(vii) After the tender was awarded for the project, because of the objections raised by the traders and after filing of this Writ Petition, the work has been stopped.

of Bus stand will be useful for the public and will be benefited as there will be place for accommodating the traders also.

9. Heard the learned counsel for the parties and perused the materials on record.

10. Construction of a bus stand and commercial complex, has been decided to be made, under the Lok Sabha Constituency Fund. Accordingly, Project Director, Rural Development Authority, Dharmapuri, has issued proceedings. Block Development Officer, Pennagaram has informed the Project Director, Rural Development Authority, that there is sufficient place to complete the project. Administrative sanction has been granted by the District Collector, Dharmapuri. Tender floated has been finalised and contract awarded. At this stage, there is opposition.

11. Though the place has been used as a 'shandy', necessity to construct a bus stand and commercial complex, would certainly benefit the public. Petitioner, as a matter of right cannot contend that there is no need for them. There cannot be any prohibition against the respondents, not to construct a bus stand and commercial complex.

12. It is the specific case of the respondents that after the completion of the commercial complex, traders would be accommodated also. On the facts and circumstances, we only observe that respondents to consider accommodating vending of cattle also.

13. In the light of the above, mandamus sought for cannot be granted. Writ petition is dismissed. No Costs. Consequently, the connected writ miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

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To

1. The Secretary to Government,
State of Tamilnadu,
Revenue Department,
Fort St. George,
Chennai - 600 009.

2. The Secretary to Government,
Rural Development and
Panchayat Raj Department,
Fort St. George, Chennai - 600 009

3. The District Collector,
Dharmapuri District, Dharmapuri.

4. The Block Development Officer,
Pennagaram,
Dharmapuri District.

+1cc to Mr.M.Muthappan , Advocate SR.No. 63919

+1 cc to Government Pleader Sr.No. 63869

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A.SK(22/08/2019)



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