



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P(MD)NO.22890 OF 2019
and
W.M.P(MD)No.19641 of 2019

K.Manikandan

:Petitioner

.vs.

1.The District Collector,
District Collectorate Complex,
Tirunelveli.

2.The District Adi Dravidar Welfare Officer,
Tirunelveli.

3.The Special Tahsildar,
Adi Dravidar Welfare,
Nanguneri.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to maintain the land extending 3.10 Acres in Survey No.440/1B, Parivirisooryan Village, Radhapuram Taluk, Tirunelveli District only for welfare of free house site patta holders belonging to Adi Dravidar Community by considering the Petitioner's representation dated 26.8.2019.

For Petitioner : Mr.A.Sivasubramanian
For Respondents : Mr.A.Muthukaruppan
Addl.Govt.Pleader

O R D E R

[Order of the Court was made by **T.S.SIVAGNANAM.,J.**]

We have heard Mr.A.Sivasubramanian, learned counsel appearing for the Petitioner and Mr.A.Muthukaruppan, learned Additional Government Pleader, who accepts notice on behalf of the respondents.



2.By consent of either side, the Writ Petition is taken up for final disposal.

3.This Writ Petition styled as a 'Public Interest Litigation' seeks for a direction to the respondents to maintain the land measuring an extent of 3.10 Acres in Survey No.449/1B, Parivirisooryan Village, Radhapuram Taluk, Tirunelveli District only for welfare of free house-site patta holders belonging to Adi Dravidar Community.

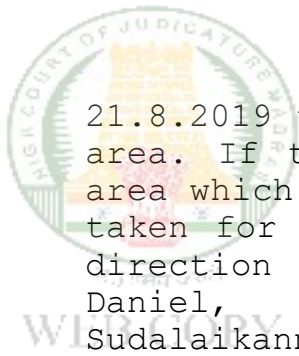
4.In this regard, the Petitioner has given a representation dated 26.8.2018 and since the representation was not considered and steps were taken by the authorities to put up construction in the said land, the Petitioner is before this Court by way of the present Writ Petition.

5.The Government, in the year 1992 developed a lay-out of house sites to be allotted to house-less persons belonging to Adi Dravida community. The lay-out was promoted in Survey No. 449/1B, Parivirisooryan Village, Radhapuram Taluk, Tirunelveli District. The approved sketch has been produced before us which shows the number of plots, the area ear-marked as lay-out and the area reserved for shops and the area reserved for park. The Petitioner's case is that the respondents are trying to put up construction in the area which has been reserved for park for establishing a Primary Health Centre.

6.According to the Petitioner, the said area should be preserved as a Park and it should be used only for the exclusive purpose for which approval has been granted under the scheme promoted by the Government. Photographs which has been produced in the typed-set of papers shows that though the said area was developed in the year 1992 and thereafter, house site pattas were granted, nothing has been done by the respondents in that area for construction of a park. The said area is covered with thorny bushes and other bushes and as such the respondents have now propose to put up a Primary Health Centre, not in the entire area but only to the extent of three cents. Considering the virtual position which has prevailed in the said locality and all these years, the said land remained as a vacant land, we are of the considered view that utilizing a portion of the land for public purpose i.e., to establish a Primary Health Centre will in no way hamper the rights of the residents of the lay-out. Therefore, we are of the view that that the Petitioner cannot oppose the establishment of a Primary Health Centre, that too, only to an extent of three cents out of the total 12 cents of the land, which has been earmarked for the common purpose.

7.The Special Tahsildar, Adi Dravidar Welfare, Nanguneri, Tirunelveli District has addressed to the District Adi Dravidar Welfare Officer, Tirunelveli by proceedings, dated

<https://hcscs.eCourts.gov.in/hcscs/Files/>



21.8.2019 which shows that there is an encroachment in the common area. If there is encroachment in the said common area or in the area which has been earmarked for park, necessarily action has to be taken for removal of such encroachment. We cannot issue a positive direction because the encroachers namely, Gracy, daughter of Daniel, Jeyaraj, son of Daniel, Thiruselvan, Arulraj, son of Sudalaikannu, Arul Raj, son of Daniel, Muthuraj @ Suman have not been impleaded as party-respondents in the present Writ Petition. Needless to state that the authorities should take action to ensure that common areas are free from encroachments.

8. Therefore, the Writ Petition is disposed of, directing the respondents to construct a Primary Health Centre in three cents in the above said land earmarked for park and a compound wall shall also be erected around the Primary Health Centre and the remaining area will be cleared from thorny bushes and play equipments and other equipments used by the children shall be installed by the respondents 2 and 3, for which they can seek financial assistance from the District Collector concerned or from the Department of Adi Dravidar and Tribal Welfare. Further, the respondents are directed to take appropriate action against the encroachers by following the due procedure established under the relevant statute. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar(CS)

vsn

To

1.The District Collector,
District Collectorate Complex, Tirunelveli.

2.The District Adi Dravidar Welfare Officer, Tirunelveli.

3.The Special Tahsildar,
Adi Dravidar Welfare, Nanguneri.

+1CC TO MR.SIVASUBRAMANIAN, Advocate Sr. No.95241

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No.95115

ORDER MADE IN
W.P(MD)NO.22890 OF 2019
and W.M.P(MD)No.19641 of 2019
31.10.2019

TR(18.11.2019) 3P 6C