



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:28.11.2019

CORAM:

THE HONOURABLE **MR. JUSTICE M. SUNDAR**

W.P(MD)No.25355 of 2019

Rev.Sam Milton Jebathish

... Petitioner

Vs.

1.The District Collector,
Kanyakumari District,
Nagercoil.

2.The District Child Protection Officer,
Kanyakumari District,
Nagercoil.

3.The Tahsildar,
Thovalai Taluk at Boothapandi,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the second respondent not to take any action to vacate the petitioner's hostel namely "Bethel Ashram" situated at S.No.167/2, Chenbagaramanputhur Village, Thovalai Taluk, Kanyakumari District without giving opportunity of hearing from the petitioner on the basis of the representation dated 22.11.2019.

For Petitioner : Mr.G.Thiruvarutselvan

For Respondents : Mr.B.Bhagawathi
Government Advocate

ORDER

Mr.G.Thiruvarutselvan, learned Counsel on record for writ petitioner and Mr.B.Bhagawathi, learned Government Advocate, who accepts notice on behalf of all three respondents are before this Court.

2. With consent of learned Counsel on both sides, main writ petition is taken up, heard out and is being disposed of.

3. Instant main writ petition turns on a very narrow compass, as it is one seeking mandamus qua disposal of writ petitioner's representation dated 22.11.2019 wherein writ petitioner has made a plea with regard to 27 cents of land comprised in S.No.167/2 in Chenbagaramanputhur Village, Thovalai Taluk, Kanyakumari District



(hereinafter 'said land' for the sake of brevity, clarity and convenience).

4. It is the case of the writ petitioner that an orphanage established in 1988 in the said land is being run and that 50 children have been housed in the orphanage purely as a matter of social service, without charging anything from the inmates. What is of utmost importance is, learned Counsel for writ petitioner at the hearing on instructions submits that writ petitioner owns land admeasuring 37 cents or thereabouts (adjacent to said land) comprised in Survey Nos.171/1, 172, 173/2 and 174/2 in Chenbagaramanputhur Village, Thovalai Taluk, Kanyakumari District (hereinafter 'writ petitioner's land for the sake of brevity, clarity and convenience).

5. Learned Counsel for writ petitioner, on instructions submits that the said land is admittedly Government Poromboke land and writ petitioner has already offered to surrender writ petitioner's land which is patta land, in lieu of regularising said land where orphanage is situate. Writ Petitioner undertakes to produce original title deeds of writ petitioner's land before the first respondent and demonstrate writ petitioner's bonafide. This is recorded as this aspect of the matter has not been articulated with the specificity in the representation dated 22.11.2019.

6. Notwithstanding several averments/ grounds raised / contentions urged in the affidavit filed in support of instant writ petition, learned counsel for writ petitioner abridges the scope of instant writ petition / prayer in instant writ petition and submits that it will suffice if first respondent is directed to dispose of the aforementioned representation of the writ petitioner dated 22.11.2019, details of which have been alluded to supra.

7. Learned State counsel submitted that the first respondent is the authority who shall consider the aforementioned representation dated 22.11.2019 made by the writ petitioner (page Nos.28 and 29 of the typed set of papers forming part of the case file).

8. The aforesaid representation dated 22.11.2019 shall be disposed of by the first respondent on its own merits and in accordance with law as expeditiously as possible and in any event, within a period of four (4) weeks from the date of receipt of a copy of this order.

9. It is made clear that in the course of the representation being considered by first respondent, if the rights of any other third party / parties or any other third party entity / entities is / are likely to be affected, first respondent shall put on notice and give reasonable opportunity to such third party / parties or any other third party entity / entities, before disposing of the



aforementioned writ petitioner's representation. Though obvious, it is made clear that this Court has not expressed any opinion or view on the merits of the matter. The authority concerned ie., first respondent shall not embark upon any exercise which is within the domain of civil Court jurisdiction.

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10. The proceeding / order of disposal of aforementioned representation shall be communicated by the office of first respondent to the writ petitioner and others concerned if any under due acknowledgement within seven (7) working days from the date of completion of aforesaid exercise, ie., seven days from date of disposal. Any proposed action against the writ petitioner qua possession of said land shall be kept in abeyance till the disposal of the representation. After the disposal of the representation, such action will either commence or be dropped depending on the nature of disposal of the representation by the first respondent such disposal being on its own merits and in accordance with law.

11. Instant Writ Petition is disposed of with above directions. There shall be no order as to costs.

Sd/-

Assistant Registrar (co)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The District Collector,
Kanyakumari District,
Nagercoil.

2.The District Child Protection Officer,
Kanyakumari District,
Nagercoil.

3.The Tahsildar,
Thovalai Taluk at Boothapandi,
Kanyakumari District.

+1 CC to Mr.G.THIRUVARUTSELVAN, Advocate (SR-102322[F] dated 28/11/2019)

+1 CC to SPL GP (SR-102677[F] dated 29/11/2019)

W.P(MD)No.25355 of 2019

28.11.2019

VB(18.12.2019) 3P 6C

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