



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2021

CORAM

THE HONOURABLE MR.JUSTICE R. MAHADEVAN

W.P. No. 4618 of 2021

and

WMP Nos. 5259, 5262 and 8423 of 2021

New Modern Matriculation School
represented by its Correspondent
N. Piramanayagam
No.127, M.H. Road, Shanthi Nagar
Perambur, Chennai 600 011

...Petitioner

Versus

1. The Union of India
Ministry of Home Affairs
represented by its Secretary
The Custodian of Enemy Property for India
"B" Wing, 2nd Floor, NDCC-II Building,
Palikakendra, Jai Singh Road
New Delhi 110 001
2. The Assistant Custodian of Enemy
Property of India
Office at : The Custodian of Enemy Property
for India, Kaiser - I - Hind Building,
1st Floor, Currimbhoy Road,
Ballard Estate, Fort, Mumbai 400 001.
3. The District Collector, Chennai,
The Deputy Custodian of Enemy
Property for India, Singaravelar
Maligai, Chennai 600 001

...Respondents

Writ Petition filed under Section 226 of Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to the undated order passed by the 2nd respondent posted on the door of the petitioner's School vesting three grounds and 46 square feet of land in block No.11, T.S.No.32/1, Part Sembium Village, Perambur Taluk and the consequential sealing order issued by the 2nd Respondent in his order dated 08.01.2021 and quash the same and direct the respondents to sell the above said land along with the land



already leased out to the petitioner school by lease deed, as requested by the petitioner on 05.02.2021.

For Petitioner : Dr. R. Gowri
for Mr.P.Ebenezer Paul

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For Respondents : Mr. B. Sudhir Kumar, SPC for R1 and R2.
Mr. Stalin Abimanyu Govt.Advocate for R3.

O R D E R

The petitioner has filed this Writ Petition seeking for issuance of a Certiorarified Mandamus to quash the undated order passed by the 2nd respondent and the consequential sealing order dated 08.01.2021 issued by him and thereafter to direct the respondents to sell the land measuring three grounds and 46 square feet in block No.11, T.S.No.32/1, Part Sembium Village, Perambur Taluk to them by considering their representation dated 08.01.2021.

2. The case of the petitioner is that he is the Correspondent of New Modern Matriculation School, which is administered by a private trust namely Modern Educational Trust. It is further stated that the petitioner school, on coming to know about the availability of vacant immovable enemy property vested in the respondents 1 and 2 situate at T.S.No.32/1 (PartJ) of Block No.11, Sembium Village, Perambur-Purasawakkam Taluk, Chennai-11, approached the 3rd respondent to execute lease agreement in their favour. The third respondent also submitted a proposal for execution of lease deed on 03.06.2010 to the first respondent and ultimately, a lease deed was executed between the petitioner and the first respondent on 09.09.2015. The lease was initially for a period of three years and it was subsequently renewed upto 31.08.2021. According to the petitioner, there are totally 18 grounds of vacant land available out of which what was leased in their favour is only two grounds and 2398 square feet only. According to the petitioner, the second respondent on scrutiny of the Enemy property records directed the third respondent to measure the property which was in actual use with the petitioner. During such inspection, it unfolded that the petitioner is using excess land than what was leased out to them. According to the petitioner, after putting on notice the respondents 2 and 3, the petitioner removed the thorny bushes, levelled the land and utilised it for parking school vans. Notwithstanding the same, the third respondent demanded payment of rent for the use of excess land in his communication dated 03.02.2020 and the petitioner also paid the same. It is the grievance of the petitioner that on 08.01.2021, the respondents 2 and 3 barged into the vacant land, which was under the possession of the petitioner and sealed it. When this was questioned, the



respondents relied on an undated order passed by the first respondent by which the first respondent in exercise of the powers under the Custodian of Enemy Property for India (CEPI) Act directed the respondents 2 and 3 to ensure that there are no one trespasses in to the properties of the government under the aforesaid Act.

3. The learned counsel for the petitioner submitted that the respondents are intending to sell the immovable Enemy Property to prospective purchasers as per Section 8A of the Enemy Property Act, 1968. However, when the petitioner school made a request to sell the land, which was in their possession, it was refused by the respondents. The petitioner also submitted a representation dated 05.02.2021 expressing their intention to purchase the enemy property, however, the representation dated 05.02.2021 has not been considered so far.

4. The learned counsel for the respondents 1 and 2, produced a copy of the communication dated 25.03.2021 of the first respondent and contended that the application submitted by the petitioner will be examined as per Section 8A of the Enemy Property Act and the decision taken thereof will be intimated to the petitioner.

5. In view of the aforesaid submission made by the learned Counsel for the respondents 1 and 2, based on the communication dated 25.03.2021 of the first respondent, the first respondent is directed to consider the representation dated 05.02.2021 and pass appropriate orders thereof on merits and in accordance with law, after affording an opportunity to the petitioner as well as any of the interested parties. Such exercise shall be completed by the first respondent within a period of eight weeks from the date of receipt of a copy of this order.

6. Subject to the aforesaid direction, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

msr/rsh



To

1. The Secretary
The Union of India
Ministry of Home Affairs
The Custodian of Enemy Property for India
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3. The District Collector, Chennai,
The Deputy Custodian of Enemy
Property for India
Singaravelar Maligai
Chennai 600 001

+1cc to Mr.B.Senthil Kumar,Advocate,Sr.31774
+1cc to Mr.Ebenezer Paul, Advocate,Sr.31866
+1cc to the Government Pleader,Sr.32028

W.P.No.4618 of 2021

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NSK 24/08/2021