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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19-11-2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.40592 OF 2015

AND

M.P.NOS.1 AND 2 OF 2015

A.Sugumaran

... Petitioner

.Vs.

1. The District Collector,
Thiruvannamalai District,
Thiruvannamalai.

2. The District Adi Dravidar and Tribal
Welfare Officer,
Thiruvannamalai.

3. The Special Tahsildar,
Adi Dravidar Welfare Office,
Vandhavasi,
Thiruvannamalai.

4. M.Rathinavel

... Respondents

PRAYER:-

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the second respondent in his proceedings No.K1/40892/2015 dated 13.10.2015 and quash the same.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.C.Selvaraj
1 to 3 Additional Government Pleader

For Respondent-4 : Mr.N.Ramesh



O R D E R

The order impugned dated 13.10.2015 issued by the second respondent states that the land measuring 3 cents was allotted in favour of the fourth respondent Mr.M.Rathinavel. It is further stated that the 'Grama Natham' Survey No.151/11 is a Government poramboke and classified as 'Playground' for the benefit of the village people. The impugned order further states that the electricity and water connections were also given.

2. In view of the fact that the playground is illegally allotted in favour of few persons, this Court directed the third respondent-Special Tahsildar to submit a Status Report. Accordingly, Mr.K.Thirunavukkarasu, Special Tahsildar, Adi Dravidar Welfare Office, Vandavasi, Thiruvannamalai District, today i.e., on 19.11.2021 present before this Court and filed the Status Report. The Special Tahsildar also assisted the learned Additional Government Pleader appearing on behalf of respondents 1 to 3. The Status Report submitted by the third respondent-Special Tahsildar on 19.11.2021 is extracted as under:-

"1.I Thiru K.Thirunavukkarasu, S/o.P.Krishnan, Hindu aged about 51 years, working as Special Tahsildar (ADW) Vandavasi Taluk Thiruvannamalai District, well aware of the facts of the case through the records available in my Office, I submit the followings for favour of this Honourable Writ Petition.

2. I submit that an extent of 5.18 Acres of land in Madam Village, Vandavasi Taluk (Now Chetpet Taluk) was acquired in the year 1964 for the purpose of issuing House site patta to the Houseless Adidravidar people of Madam village. Pattas were issued to 64 Adidravidar people in the acquired land in S.No.95/7B, 95/8, 95/9, 95/10, 95/11, 95/15B, 95/17, 95/18A, 95/19A, 95/20A, 95/23, 95/24A, 95/24B, 95/24C, 95/25A, 95/25B of Madam Village in Vandavasi Taluk (Now Chetpet Taluk).

3. I submit that a verification of the Revenue records S.No.95/7B (New S.No.151/11) was shows that classified as playground of Village Natham. In the playground place in S.No.95/7B (New S.No.151/11) one Thiru Rathinavel, S/o.Murugan the fourth respondent Madam Village Vandavasi Taluk (Now Chetpet Taluk) constructed Green House to an extent of 3 cents.



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4. I submit that a verification of the Revenue records shows that House site Patta was given to Thiru Rathinavel, S/o.Murugan the fourth respondent to construct house in S.No.95/B of Madam Village. But the fourth respondent Thiru Rathinavel, S/o.Murugan alone constructed the Green House in S.No.95/7B (i.e.) in playground and remaining portion of the S.No.151/11 kept vacant.

5. I submit that the fourth respondent constructed the house in the year 2015 under the Green House Project."

3. The above Status Report is unambiguously states that as per the revenue records S.No.95/7B (New S.No.151/11) is classified as 'Playground of Village Natham'. It is further states that patta was granted in favour of the fourth respondent for 3 cents. However, the fourth respondent constructed the house in the year 2015. Immediately on construction, the petitioner approached this Court by filing the present writ petition.

4. The learned counsel for the petitioner brought to the notice of this Court that the petitioner earlier filed WP No.20701 of 2015 to forbear the respondents from allowing the fourth respondent herein to construct a Green House earmarked in S.No.95/7B at Madam Village, Vandavasi Taluk, Thiruvannamalai District. This Court directed the first respondent-District Collector to consider the representation submitted by the petitioner on 12.06.2015 and pass orders. Based on the said directions, the present impugned order has been passed.

5. This Court is of the considered opinion that the writ petition is pending for about 5-1/2 years. The official respondents have failed to file their counter-affidavit and only after issuing directions, directing the third respondent to file Status Report on 21.10.2021, the third respondent filed the Status Report on 19.11.2021.

6. The conduct of the respondents 1 to 3 in this regard cannot be appreciated. Some irregularities occurred even as per the Status Report filed by the third respondent. As per the revenue records, the subject property is classified as 'Playground of Village Natham' for the benefit of the people in that locality. As per the provisions of the Statutes and Rules, playgrounds cannot be utilised for the purpose of constructing buildings nor any allotment can be made in favour of the individuals. Thus the illegal act of permitting the fourth respondent to construct the house in the playground by



respondents 1 to 3, even after filing of the writ petition by the petitioner in the year 2015 cannot be approved. The respondents 1 to 3 have neither filed counter-affidavit nor taken any steps to ensure that the playground is being maintained as playground for the benefit of the village people of that locality. The petitioner has immediately approached this Court when an illegal allotment is made in favour of the fourth respondent in a 'village playground'. At least at that point of time, the Authorities ought to have stopped such illegalities. Contrarily, they allowed the illegalities to continue and permitted the fourth respondent to construct the house in the playground, which can never be accepted.

7. If this kind of illegal allotment of Government land and playground is allowed to be made by the officials, then it will be a threat for the maintenance of the public properties by these officials. The public officials are always expected to maintain the Government lands, buildings and properties intact and for the benefit of the people at large. Contrarily, they cannot permit any other individual to encroach upon the public lands for individual gains or allot such public lands in favour of the individuals in violations of the Statutes and Rules in force. Thus, the actions of the respondents 1 to 3, in the present case, even after filing of the writ petition is not in accordance with law and the first respondent-District Collector in this regard has to conduct a detailed enquiry and initiate all appropriate actions against the officials, who have committed such illegalities in allotting the playgrounds in favour of the individuals and permitted the individual to construct house in the playgrounds.

8. In view of the fact that the Status Report filed by the third respondent-Special Tahsildar categorically states that the subject property is classified as playground and the fourth respondent was permitted to construct a house in the playground. In the event of allowing such illegalities to continue, the same will not only create bad precedents, but the Public Officials will be emboldened for allotting such public lands in favour of the individuals by corrupt means. In such circumstances any leniency or misplaced sympathy will result in infringement of public right, which is unconstitutional. Such infringements can never be allowed by the constitutional Courts. Public rights in respect of public lands are to be protected in all circumstances and the parties responsible and accountable must be prosecuted for any such illegality of permitting any other private person to encroach upon or construct buildings in public places.

9. In view of the facts and circumstances, this Court is inclined to pass the following orders:-



(1) The impugned order passed by the second respondent in proceedings No.K1/40892/2015 dated 13.10.2015 is quashed.

(2) The respondents 1 to 3 are directed to demolish the construction made in the playground and maintain the playground for the benefit of the people in that locality, within a period of one month from the date of receipt of a copy of this order.

(3) The first respondent-District Collector is directed to conduct a detailed enquiry and institute all further actions, including the disciplinary proceedings against the officials involved in such illegalities and prosecute them accordingly.

10. With the above directions, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

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Sub Assistant Registrar

Svn

To

1. The District Collector,
Thiruvannamalai District,
Thiruvannamalai.
2. The District Adi Dravidar and Tribal
Welfare Officer,
Thiruvannamalai.
3. The Special Tahsildar,
Adi Dravidar Welfare Office,
Vandhavasi,
Thiruvannamalai.

+1cc to the Government Pleader, S.R.No.60290

W.P.NO.40592 OF 2015

PMK(CO)
PBS/06/12/2021