

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2021

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.14650 of 2021

and

W.M.P.Nos.15531 and 15532 of 2021

(Through Video Conference)

N.Anwar Baig

...Petitioner

Versus

1.The Commissioner,
Hindu Religious and Charitable Endowments,
Nungambakkam,
Chennai - 600 034.

2.The Chairman,
Pallavaram Cantonment,
St.Thomas Mount,
Chennai - 600 016.

3.The Executive Officer,
Pallavaram Cantonment,
St.Thomas Mount,
Chennai - 600 016.

4.The District Collector,
Collector's Office,
Kancheepuram District.

5.The Tahsildar,
Taluk Office, Alandur,
Chennai

...Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to direct the respondents 1 to 3 to handover the possession of 53 grounds comprised in S.No.239, 238 and 240 situated at Main GST Road, Pallavaram, Kancheepuram to the petitioner in a time bound manner to the petitioner.

For Petitioner : Mr.R.Karunakaran

For Respondents : Mr.Yogesh Kannadasan,
Government Advocate

O R D E R

This writ petition has been filed for a Writ of Mandamus to direct the respondents 1 to 3 to handover the possession of 53 grounds comprised in S.Nos.238, 239 and 240 situated at main GST Road, Pallavaram, Kancheepuram to the petitioner within a time frame to be fixed by this Court.

2. The case of the petitioner is that his great grandfather one Dr.Usman Sahib was in possession of the said property, measuring an extent of fifty five grounds with a terraced building on the main GST Road, Pallavaram. He had purchased the said property from one Sundararaman, by way of a valid sale deed, dated 28.02.1910 and registered the same as document No.423/1910 in S.Nos.237, 238, 239 & 240 and a patta was issued in No.52, Cantonment Pallavaram, Pallavaram, Chennai 600 043. After the death of Dr.Usman Sahib, his daughter Mrs.Ameena Bi, wife of Khader Baig, who was the only legal heir of the said person, inherited the aforesaid property along with her sons Nazeer Baig, father of the petitioner and one Ameer Baig, who died as a bachelor without any issues. After the death of Mrs.Ameena Bi, the petitioner's father Nazeer Baig was in possession and enjoyment of the property. After his death, the petitioner's mother and brothers and sisters, who are the legal heirs, are in possession and enjoyment of the said property. The petitioner's mother Mrs.Fathima Bi also died leaving behind the petitioner, his brothers and sisters namely 1) Mumtaj Begum, 2) Mohammed Baig, 3) Ahamed Baig, 4) Ashraf Begum, 5) Anzar Baig and 6) Razia Baig, who have got valid records to prove that they are the only legal heirs in any Court of law and the same has been proved by the petitioner in the City Civil Court, Chennai for two grounds in fifty five grounds, which was illegally disturbed and reaping the benefits by a private party in respect of S.No.237.

3. The learned counsel for the petitioner submitted that the first respondent being the Commissioner, H.R. & C.E. has encroached upon 22 grounds comprised in S.Nos.239 & 240 and constructed 50 shops and leased out the same to various persons and also collected rent of Rs.5,000/- in all, every month totaling a sum of Rs.2,50,000/- was collected as rent by the first respondent. The Cantonment Board, being the second and third respondents have also encroached upon 31 grounds comprised in S.No.238 and constructed a Kalyana Mandabam and every year, they collected a rent of Rs.12,00,000/- in an unauthorized manner and illegally without any valid legal records. The respondents have illegally occupied the said grounds and constructed a Kalyana Mandapam and a number of shops and they are enjoying the benefits of the aforesaid property, whereas the petitioner and other legal heirs are living in a pathetic,

pitiabile condition and are made to wander as nomads in the streets, starving for food and shelter.

4. The learned counsel for the petitioner submitted that the petitioner has made several representations to the Authorities by enclosing all the records. But the Cantonment Board/ respondents 2 and 3, have not handed over the aforesaid property to the petitioner and they criminally grabbed the lands. Therefore, the prayer made by the petitioner has become totally unheeded, discarded and the efforts made by the petitioner has become futile. The learned counsel for the petitioner further expressed his grievance that in a democratic country, the Government Authorities are not helping the poor citizens by defying the law and instead of considering their case, they are made to run from pillar to post.

5. According to the learned counsel for the petitioner, the respondents have not given any reply to the representation made by the petitioner and legal notices were also issued on 20.07.2017 narrating all the facts and the respondents did not have any record to prove their stand on the said property and illegally occupied the said area by constructing shops and other buildings as if they are the bonfide owners, when they are not legally entitled to collect rent from the said persons. On the other hand, it is submitted by the learned counsel for the petitioner that the petitioner is the owner of the property and he is entitled to collect the rent of the aforementioned property.

6. The learned counsel for the petitioner submitted that a writ petition was filed by the petitioner along with his brothers and sisters, in the year 2009 in W.P.No.22992 of 2009 seeking for transfer of patta in the name of the petitioner by the fourth and fifth respondents. On 25.01.2010, this Court has directed the Tahsildar, Alandur to consider the representation of the petitioner within a period of eight weeks from the date of receipt of such representation and on 16.04.2010, the Tahsildar, Alandur issued a call letter in Na.Ka.No.715/A1 to appear on 27.04.2010 and the petitioner along with his brothers and sisters appeared before the said fifth respondent and produced the relevant documents to prove their ownership. But, till date, the respondents have not passed any orders for the reasons best known to them.

7. The petitioner further submits that the petitioner's claim has not been considered and the Government, which acts as an eminent domain, has got the right to absorb the lands after paying reasonable compensation. But in the present case in hand, the respondents, without paying proper compensation, have taken the said lands from the petitioner, which is not even for a public purpose and the respondents themselves are holding the

lands. Hence, the petitioner has now approached this Court seeking for issuance of a Writ of Mandamus to direct the respondents 1 to 3 to handover the possession of lands comprising 53 grounds in S.Nos.238, 239 and 240 situated at main GST Road, Pallavaram, Kancheepuram to the petitioner and also to pay Rs.24,36,00,000/- (Rupees Twenty Four Crores and Thirty Six Lakhs only) as compensation for using and occupying the said lands.

8. Learned Government Advocate appearing for the respondents submitted that based upon the earlier orders passed by this Court in W.P.No.22992 of 2009, the Tahsildar, Pallavaram was directed to consider the representation of the petitioner and accordingly the Tahsildar, Pallavaram has called the petitioner to appear before him for an enquiry on 08.10.2021 before the said office and the petitioner is hereby directed to appear before the Authorities and produce all the relevant documents to prove his case and after scrutinizing the documents, the Tahsildar, Pallavaram shall pass appropriate orders within the time frame that shall be fixed by this Court.

9. Without expressing any opinion on the merits of the case, this Court directs the respondents to pass appropriate orders after affording sufficient opportunity of hearing to both the parties and pass appropriate orders on merits and in accordance with law, within a period of sixteen (16) weeks from the date of receipt of a copy of this order.

10. Accordingly, this Writ Petition stands Disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

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To

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Chennai .

+1cc to M/s.R.Karunakaran, Advocate SR.No.52075

+1cc to the Government Pleader SR.No.52449

W.P.No.14650 of 2021

KSM(CO)
RVM(02/11/2021)