



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.02.2021

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.14344 of 2010 and

M.P.(MD)No.1 of 2014

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1. R.Balasubramanian(Died)
2. B.Uma Devi
3. K.Asokan
4. A.Anandhakrishnan
5. A.Narayanan

(Petitioners 2 to 5 are substituted vide Order dated 07.01.2021 in

W.M.P.(MD)No.14244 of 2020)

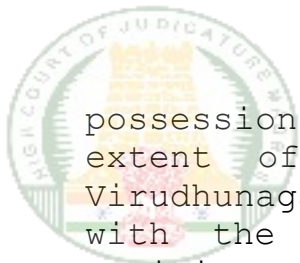
... Petitioner

Vs.

1. The Secretary to Government,
Municipal Administration and
Water Supply Department,
Government of Tamil Nadu,
Fort St. George,
Chennai - 600 009.
2. The Director,
Municipal Administration(Zonal),
Chepauk,
Chennai - 600 005.
3. The District Collector,
Virudhunagar District,
Virudhunagar - 626 002.
4. The District Revenue Officer,
Virudhunagar District,
Collectorate,
Virudhunagar - 626 002.
5. The Commissioner,
Virudhunagar Municipality,
Virudhunagar - 626 001.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to Memo in O.M.(D1)25397/09 dated 23.09.2009 on the file of the fourth respondent herein and to quash the same and to direct the respondents either to assign the land bearing survey No.524/1B to an extent of 6040 sq.ft, in Kottapatti Village, Sattur Road, Virudhunagar belonging to the



possession of the land bearing Survey Nos.559/2 and 559/3 to an extent of 6040 sq.ft., in Kottapatti Village, Sattur Road, Virudhunagar to the petitioner in its original condition together with the loss of income payable by the respondents to the petitioner within a time frame as may be fixed by this Court.

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For Petitioner : Mrs.P.Jessi Jeeva Priya,
for Mr.K.C.Gurusamy
For R-1 to R-4 : Mr.C.Ramar,
Additional Government Pleader.
For R-5 : Mr.K.P.Krishna Doss,
Special Government Pleader.

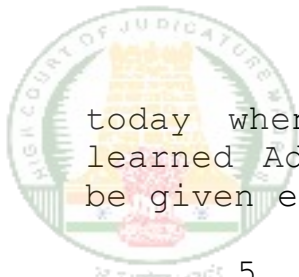
O R D E R

Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for respondents 1 to 4 and the learned Standing counsel appearing for the fifth respondent/Municipality.

2. The case of the original writ petitioner is that he owned the lands in R.S.No.559/1 and 559/2 in Kottapatti Village, Sathur Road, Virudhunagar. The local body wanted to construct a bus stand in the said survey number. The municipality requested the original petitioner's father vide letter dated 29.07.1989 to sell the property to them so that a bus stand could be constructed. Negotiations were conducted between the petitioners' family on the one hand and the municipal authorities on the other. At one stage, it was suggested to the municipality that the petitioners' family would be ready to hand over the land to the extent of 5052 sq.ft, if in exchange the land comprised in Survey No.524/1B abutting Tamil Nadu Hotel is given.

3. This proposal appeared to be acceptable to the local body. They took possession of the petitioners' land and the same was utilised for constructing the new bus stand. After taking the petitioners' lands, the municipality dethered in executing the exchange deed in favour of the petitioners. There was a protracted correspondence between the parties. Finally vide letter dated 17.05.2001, the fifth respondent addressed the Government for obtaining permission to execute the exchange deed. Even though the permission was sought for by the local body as early as in the year 2001, till date the first respondent has not taken any decision.

4. This writ petition was taken up by me on 07.01.2021 and taking note of the request for adjournment made by the learned Additional Government Pleader, the case was listed on 01.02.2021. Earlier, the matter was listed on 24.11.2020. Unfortunately, even



today when the matter was taken up, the request made by the learned Additional Government Pleader is that the Government may be given eight more weeks to take a final decision.

5. I went through the contents of the letter dated 21.12.2020 addressed by the Director of Municipal Administration to the Commissioner of Municipality. The second respondent herein had indicated that the land belonging to the petitioner appeared to be of higher value while the land belonging to the municipality appeared to be a lower value. Since in view of this discrepancy, certain further details have been sought for.

6. I fail to understand the logic. If the land value of the municipality stood on the higher side, then there is some reason to raise some objection or query. Even according to the second respondent, it is only the land of the petitioner that is higher in terms of value. I am not inclined to grant any further adjournment to the first respondent. The basic facts are not in dispute. The land belonging to the petitioner had been taken over on a specific understanding that the land comprised in Survey No.524/1B would be given to the petitioner by way of exchange. The municipality would frankly admit that without following any acquisition proceedings, with the consent of the petitioners' family their land was taken over. When the petitioners' family surrendered possession of their land, expectation was that they would get the subject land in exchange. In fact the land to be given by way of exchange was also finalised in the negotiations between the petitioners' family and the local body. Therefore, it is not open to the Government to drag its feet any longer.

7. The petitioners' counsel has enclosed in the typed set of papers, a copy of the memorandum of family arrangement dated 20.11.1994, whereby the original petitioner's rights have been recognised by the other family members. Unfortunately, the original writ petitioner Balasubramanian passed away during the pendency of this writ proceedings. The legal heirs have come on record. Therefore, the first respondent is directed to accord its permission to the proposal of the fifth respondent made vide letter dated 17.05.2001 and exchange deed will be executed by the fifth respondent in favour of the legal heirs of the original writ petitioner Balasubramanian or their nominee within a period of twelve weeks from the date of receipt of a copy of this order.

8. The question of the local body getting consent from the District Revenue Officer does not arise. Though the writ petitioners have challenged the memorandum issued by the District Revenue Officer, I am of the view that there is nothing in the said communication that warrants any legal challenge.



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W.P.(MD)No.14344 of 2010 and

9. This writ petition stands allowed in the nature of Writ of Mandamus as directed above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (RTI)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

pmu

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1. The Secretary to Government,
Municipal Administration and
Water Supply Department,
Government of Tamil Nadu,
Fort St. George,
Chennai - 600 009.
2. The Director,
Municipal Administration(Zonal),
Chepauk, Chennai - 600 005.
3. The District Collector,
Virudhunagar District,
Virudhunagar - 626 002.
4. The District Revenue Officer,
Virudhunagar District,
Collectorate, Virudhunagar - 626 002.

+1 CC to SGP (SR-3060[F] dated 03/02/2021)

W.P. (MD)No.14344 of 2010

02.02.2021

KM (15.02.2021) 4P 6C