



WEB COPY

W.P.(MD).No.11943 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.07.2021

CORAM:

The Hon'ble Mr.JUSTICE T.S.SIVAGNANAM

AND

The Hon'ble Mrs.JUSTICE S.ANANTHI

W.P. (MD) .No.11943 of 2021

Suresh Kannan

...Petitioner

Vs.

- 1.The District Collector,
Korampallam,
Thoothukudi.
- 2.The Revenue Divisional Officer,
R.D.O Office,
Kovilpatti,
Thoothukudi District.
- 3.The Tahsildar,
Kovilpatti,
Thoothukudi District.
- 4.The Block Development Officer,
(Village Panchayat),
Union Office,
Ettayapuram Road,
Kovilpatti,
Thoothukudi District.
- 5.The Panchayat President,
Inam Maniyachi Panchayat,
Kovilpatti Taluk,
Thoothukudi District.
- 6.Renugadevi
- 7.Velammal
- 8.D.S.Muniappan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of writ of Mandamus to direct the respondents to hold enquiry on the common representation dated 10.04.2021 and take appropriate action against the erring officials

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who gave a wrong information regarding the nature of land and consequently remove the unauthorized structures build on the Children's play space in Survey Nos.2, 4, 6 and 8 at Tn. Housing Board Colony, Krishna Nagar, Kovilpatti Taluk, Thoothukudi District and restore the same as Children's plays space.

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For Petitioner : Mr.S.Siva Ilayaraja

For Respondents 1 to3 : Mr.R.Baskaran,
Standing Counsel for Government

For 4th Respondent : Mr.S.Shanmugavel
Government Advocate

O R D E R

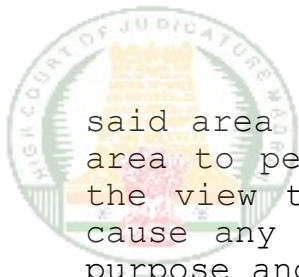
[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

We have heard Mr.Mr.S.Siva Ilayaraja learned counsel appearing for the petitioner, Mr.R.Baskaran, learned Standing counsel appearing for the respondents 1 to 3 and Mr.S.Shanmugavel, learned Government Advocate appearing for the fourth respondent. In the light of the orders we propose to pass notice to the respondents 6 to 8 is dispensed with.

2.The petitioner seeks for a direction upon the respondents to take appropriate action against the officials and others, who have given a wrong information regarding the classification of a particular land and for a consequential direction to remove the unauthorised structure put up in the property bearing Survey Nos. 2, 4, 6 and 8 of Tamil Nadu Housing Board Colony, Krishna Nagar, Kovilpatty Taluk, Tuticorin District.

3.After hearing the learned counsel for the parties and perusing the materials placed before us, we find that the eighth respondent Muniappan, had filed a writ petition before this Court in W.P.(MD)No.12337 of 2020 for a direction to consider his representation and to remove all the encroachments in the lands comprised in the aforementioned survey numbers. The writ petition was disposed of by order, dated 24.09.2020, by directing the Village Panchayat to conduct an inspection and if encroachment is found, the same to be removed. Pursuant to which, the inspection was conducted and action was initiated and notice, dated 21.10.2020 was issued to the eighth respondent as well as to the respondents 6 and 7.

4.The sixth respondent had filed a writ petition in W.P(MD) No.18638 of 2020 challenging the said notice, dated 23.11.2020. In the said writ petition, the eighth respondent herein was the fourth respondent. The writ petition was allowed by order, dated 15.12.2020, by taking note of the submission made on behalf of the panchayat stating that certain plants have been grown in the



said area and a platform has been put up for the public of the said area to perform yoga. Therefore, the Hon'ble Division Bench is of the view that erection of a Thulasimadam and a platform would not cause any hindrance to the public and it is always used for public purpose and that too, in a public place.

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5.The learned counsel for the petitioner submitted that the respondents 3 to 5 did not place the correct facts before the Court, which led to the passing of the order, dated 15.12.2020 in W.P.(MD) No.18638 of 2020.

6.The classification of the land is for a park and it is a reserved area in an approved lay-out. Therefore, the land cannot be put to use for any other purpose.

7.To substantiate the same, the learned counsel for the petitioner has drawn our attention to the approved lay-out plan formed by the Tamil Nadu Housing Board and the information secured by one A.Ramadurai, under the provisions of the Right to Information Act, dated 08.09.2020, which states that there is a play ground and it has been handed over to the local body. If the stand taken by the petitioner is correct, then it goes without saying that necessary action has to be taken to restore the area as "children play ground". However, no direction as sought for can be granted in this writ petition, as it has already been held by this Court in W.P.(MD) No.18638 of 2020 dated 15.12.2020, that the area is a park and plants have been kept and there is a floor for performing yoga and therefore, the Court found that it is unobjectionable, as long as the said order remains, the prayer sought by the writ petitioner cannot be granted. If the petitioner is so advised, he should seek for appropriate remedy before the concerned Court and then workout his rights in the manner known to law.

8.With the above observations, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(P & A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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

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+1 CC to M/s.S.SIVA ILAYARAJA, Advocate (SR-23461[F] dated
22/07/2021)

W.P. (MD) .No.11943 of 2021
19.07.2021

CM(CO)
TR(27.07.2021) 4P 6C