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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.3.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.2329 of 2022

& WMP.Nos.2491 to 2493 of 2022

S.S.R.Samuvel

.. Petitioner

vs

1.The District Collector, Thiruvallur
District, Thiruvallur.

2.The Tahsildar, Avadi Taluk,
Avadi, Chennai-53.

3.The Director General, Central
Reserve Police Force, CGO
Complex, Lodhi Road,
New Delhi-1.

4.The Deputy Inspector General,
Central Reserve Police Force,
Ground Centre, Avadi, Chennai-65.

.. Respondents

Prayer: Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call the records of the 1st respondent culminating in his order Ref.No. Na. Ka.10508/2013/No.1 dated 05.2.2021, quash the same and consequently direct the 3rd respondent to conduct a fresh enquiry in the manner known to law.

For Petitioner

: Mr.B.Harikrishnan



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For Respondents

: Mr.P.Muthukumar,
State Government Pleader
for R1 and R2

Mr.S.Janardhanam for
Standing Counsel for R3 and
R4

ORDER

(Order of the Court was made by
the Hon'ble Chief Justice)

We have heard the learned counsel appearing for the respective parties.

2. The writ petition has been filed challenging the order dated 05.2.2021 passed by the first respondent herein and seeking a consequential direction to the third respondent to conduct a fresh enquiry in a manner known to law.

3. Admittedly, the order dated 05.2.2021 challenged in this writ petition was passed pursuant to the order of this Court dated 05.6.2012 made in W.P.No.13752 of 2012. In the said writ petition, a direction was sought on the second respondent herein to conduct a survey with reference to the allegation made against the Central Reserve Police Force (for short, the CRPF) for raising a compound wall by encroaching land affecting the villagers. The said writ petition was disposed of with a direction to the first respondent herein to hold an enquiry and pass final orders in accordance with law, after giving an opportunity of hearing to the petitioner.

4. In pursuance of the order passed in the said writ petition dated 05.6.2012, the impugned order dated 05.2.2021 was passed by the first respondent after concluding the enquiry and finding that the CRPF has not encroached into the land belonging to Adi Dravida School, play ground, Christian cemetery, Hindu crematorium, municipal road and house. Pursuant to the survey, a sketch was also prepared and a final conclusion was drawn with regard to Survey No.282/2A1A of Mittanamalli Village, Avadi Taluk, Tiruvallur District for the use of play ground by the school. It was also recorded that to enable the CRPF to complete the construction of the compound wall, the encroachment made by one Mr.Rajendran, S/O Ponnann was directed to be removed and the CRPF was permitted to carry on the construction of compound wall.

5. The aforesaid order dated 05.2.2021 has been challenged mainly on the ground that grazing land has been allotted to the CRPF.



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6. However, no challenge to the allotment order has been made either in this writ petition or in the earlier writ petition. The issue raised throughout is regarding the encroachment of land by the CRPF in raising the compound wall.

7. The only reason given to challenge the order dated 05.2.2021 passed by the first respondent is regarding the use of grazing land by the CRPF without challenging the allotment made in favour of the CRPF and that too, long back. No public cause in that regard has been shown to make an allegation of encroachment of the land belonging to the Adi Dravida School, play ground, Christian cemetery, Hindu crematorium, municipal road and house, though a finding has been recorded, after conducting a survey, that the land has not been encroached by the CRPF.

8. The learned counsel for the petitioner has tried to raise certain disputed questions of fact by contesting the order dated 05.2.2021 knowing fully well that this Court, while exercising jurisdiction under Article 226 of The Constitution of India, cannot record a finding on facts and more so, when there was a dispute and in view of that, survey was conducted pursuant to the direction of the first respondent and that too, in the presence of the parties. If there is any dispute in the report of the District Collector either with regard to the location or with regard to the allegation of encroachment, it requires a finding of fact while exercising jurisdiction under Article 226 of The Constitution of India.

9. It is more so when serious contest to the allegations has been made by the learned Standing Counsel appearing for the CRPF. Rather, serious allegations are made against the petitioner for creating hindrance in raising the compound wall. According to the learned Standing Counsel appearing for the CRPF, the effort of the petitioner is somehow not to allow the CRPF to raise the construction of the compound wall, so that land may easily be encroached by others, as has been done by the said Mr.Rajendran, S/O Ponnai.

10. Taking into consideration the overall facts and the limited jurisdiction of this Court, we find that the disputed questions of fact cannot be gone into by this Court, as otherwise challenge to the allotment of land to the CRPF has not been made. We also do not find any reason to interfere with the order dated 05.2.2021 passed by the first respondent.

11. Accordingly, the writ petition is dismissed with cost of Rs.10,000/- (Rupees ten thousand only) to be paid to the Tamil Nadu State Legal Services Authority, Chennai within 15 days from



today and the compliance shall be reported to the Registrar Judicial. If the compliance is not made within the time stipulated, the writ petition shall be posted before this Court for passing appropriate orders for compliance. Consequently, the connected WMPs are also dismissed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To:

- 1.The District Collector, Thiruvallur
District, Thiruvallur.
- 2.The Tahsildar, Avadi Taluk, Avadi, Chennai-53.
- 3.The Director General, Central Reserve Police Force, CGO
Complex, Lodhi Road, New Delhi-1.
- 4.The Deputy Inspector General, Central Reserve Police Force,
Ground Centre, Avadi, Chennai-65.

Copy to:

- 1.The Secretary,
Tamil Nadu State Legal Services Authority, Chennai
- 2.The Registrar (Judicial),
High Court,Madras
- 3.The Section Officer,
WRIT Section(Posting),
High Court,Madras.
(For reporting Compliance)

+1 cc to Mr.B.Harikrishnan, Advocate Sr.NO. 15459

+1 cc to Government Pleader Sr.NO. 15534

W.P.No.2329 of 2022
& WMP.Nos.2491 to 2493
of 2022

VBM(CO)
A.SK(14/03/2022)