



W.P.No.22317 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.22317 of 2015

and

M.P.No.1 of 2015

Dr.Balaji

...Petitioner

vs.

1. The Special Commissioner for Land Administration,
Ezhilagam, Chepauk,
Chennai.
2. The District Collector,
Nagapattinam.
3. The District Revenue Officer,
Nagapattinam.
4. The Tahsildar,
Mayiladuthurai, Nagapattinam District.
5. The Commissioner,
Mayiladuthurai Municipality,
Nagapattinam District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of second respondent in his proceedings Na.Ka.12161/2006/Uoo 3 Dated 15.6.15 and



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quash the same and further direct the respondents to permit the petitioner to enjoy the 1479 square feet of land in T.S.No.1485, Ward No.3, Mayiladuturai Town as leasee.

For petitioner : Mr.B.Jawahar

For R1 to R4 : Mr.U.Bharanidharan
Additional Government Pleader

For R5 : Mr.P.Srinivas

ORDER

This writ petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus to quash the proceedings of the second respondent in Na.Ka.12161/2006/Uoo 3 Dated 15.06.15 and consequently to direct the respondents to permit the petitioner to enjoy the 1479 sq.ft. of land comprised in T.S.No.1485, Ward No.3 situated in Mayiladuthurai Town as leasee.

2. The case of the petitioner is that his father was granted lease for the aforesaid land situated in Mayiladuthurai vide proceedings of the third respondent dated 29.04.1994 for a period of 30 years. After the demise of petitioner's father, petitioner is in possession and in enjoyment of the aforesaid property. Thereafter, the second respondent issued a notice on



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24.04.2015, stating that he has proposed to cancel the lease as per Revenue Standing Order No.24A Appendix XXX [A] Clause 21 and directed the petitioner to show cause against cancellation for which, the petitioner vide letter dated 25.05.2015 made his objections. However, without considering the said objections, the second respondent vide proceedings dated 15.06.2016 cancelled the lease from the date of death of the petitioner's father. Challenging the said order, the present writ petition has been filed seeking the aforesaid relief.

3. Learned counsel appearing for the petitioner has filed an undertaking affidavit stating that the petitioner is a doctor doing medical service in the locality by giving free medical service to the poor people every Sunday. He has also given an undertaking to remove the compound wall put up by him in the leased out land in T.S.No.1485. For better appreciation paragraph 5 and 6 of the affidavit filed by the petitioner is extracted hereunder:

5. I submit that when the writ petition was listed for hearing on 27.10.2022, the Mayiladuthurai Municipality represented that they are going to keep the entire T.S.No.1485, new T.S.No.51, as road, they also



represented that in the revenue records T.S.No.51 has been mentioned as “Street”, further they will not do any construction or they will not lease out the land to any one. I submit that though I am having land in T.S.No.1483, which has no access for ingress and egress except through T.S.No.1485, new T.S.No.51. I submit that in the leased out portion, I had put up a compound wall and also planted 4 coconut trees and one Neem Tree, which was happened long ago. Now the all the trees are age old and giving shelter to the general public during the summer.

6. I submit that I hereby undertake to remove the compound wall put up by me in the leased out land in T.S.No.1485. I submit that am doing medical service in the locality and I am giving free medical service to the poor people. I hereby undertake to provide free medical services to the needy people during every Sunday.

4. Hence, he prayed this Court to record the undertaking submitted by the petitioner and also to direct the respondents to keep the entire land in Survey No.1485, New Survey No:51 in Ward No.3, Block No:36 in Mayiladuthurai Municipality as road without putting up any construction or to lease out to anyone.



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5. The learned counsel appearing for the respondents 1 to 4 submitted that since the land is classified as “Street Porambokke”, it vests with the Municipality and the Municipal Council has passed a resolution for resumption of said land for public purpose. Subsequently, the lease granted in favour of the petitioner's father ceased to be in force after the demise of the petitioner's father. In view of the above, the second respondent cancelled the lease which was already granted by the third respondent. Hence, the impugned order passed by the second respondent needs no interference of this Court and the writ petition deserves to be dismissed.

6. Learned standing counsel appearing for fifth respondent adverting to the counter affidavit submitted that the subject property will be maintained as street after removing the structures put up by the petitioner. The relevant portion of the counter affidavit is extracted hereunder:

5. This affidavit is filed before this Hon'ble Court to state that this respondent being vested with the lands in T.S.No.51 over a part of which the Petitioner is seeking the leasehold right, that this



Respondent does not wish to put the said piece and parcel of land to any use except keep the same as the part of the street for the usage of all the public without any hindrance to the owners of the adjacent property to reach their properties.

6. It is submitted that the residents including the Petitioner can very well use the said piece and parcel of land to pass and repass for reaching their properties and there is no intention of making any obstruction or structure preventing the common usage of the said part of the street to prevent any person to use the same as a passage.

It is therefore submitted that this respondent after removing the structures in the form of the gate and fencing put up by the petitioner in the said lands, will maintain the said lands as part of the street and for the common use of the public, without making any obstruction of any kind.

7. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

8. In view of the undertaking given by the petitioner as well as the fifth



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respondent this writ petition is disposed of with the following directions:

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(i) This Court directs the petitioner to remove the compound wall put up by him in the subject property as per his undertaking within a period of two weeks from the date of receipt of a copy of this order. Further the petitioner is directed to provide free medical service every Tuesday to the people residing in and around the said locality.

(ii) The fifth respondent is directed to maintain the classification of the disputed property as “street” for the usage of general public including the petitioner.

(iii) There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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RAP

Index : Yes/No
Speaking order : Yes/No

To

1. The Special Commissioner for Land Administration,
Ezhilagam, Chepauk,
Chennai.

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M.DHANDAPANI, J.

RAP



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