



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.02.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.27528 of 2013 and
M.P.No.1 of 2013

The Burma Indians Cooperative House Construction
Society Limited,
Rep. by its President
No.25/44, Paddy Field Road,
Perambur, Chennai-600 011.

...Petitioner

Vs

1.The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai-600 003.

2.The Revenue Officer,
Corporation of Chennai,
Rippon Buildings,
Chennai-600 003.

3.The Assistant Commissioner
Corporation of Chennai,
XIV division, Ullagaram,
Puzhudiavakkam,
Puzhudiavakkam Main Road,
Chennai - 600 091.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the Respondents to dispose of the representations made by the Petitioner dated 7.2.2012 and 12.03.2012 and consequently direct the Respondents 1 to 3 not to collect any property tax, water tax, sewerage tax and also not to lay any road, Drainage, Rain Water Drainage in respect of the property covered in S.No.130, 131/A1A, 131/2A, 131/10, 131/15 measuring about 4.5 acres known as Ceylon Colony and Thiruvallur Nagar in Palavakkam village, Tambaram Taluk, Kancheepuram District.



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For Petitioner : Mr.P.Jegannath
for Mr.A.Jenasenan

For Respondents : Ms.S.Dhanisha
for Mrs.Karthika Ashok

O R D E R

Heard Mr.P.Jegannath for Mr.A.Jenasenan, learned counsel for the petitioner and Ms.S.Dhanisha for Mrs.Karthika Ashok, learned counsel for respondents.

2.The petitioner society is stated to be compromised of members who are repatriates from Burma. According to the petitioner, it was sanctioned a loan by Central Government authorizing the Share Capital in the Society for the purchase of a property ad-measuring 25 acres comprised in various survey numbers in Palavakkam Village.

3.While so and as a temporary measure, the Government of Tamil Nadu permitted refugees from Sri Lankans to reside therein as a short term measure on humanitarian basis. Taking advantage of the gesture, petitioner alleges that a number of persons have encroached upon the land.

4.A writ petition was moved in W.P.No.38168 of 2002, seeking a direction to the respondents to remove the encroachers in respect of the lands in S.No.131/2A, 142, 136/1, 140/1, 141/1, 137/1, 138/2B, 136/2, 131/1A and 130 in Palavakkam Village, Kancheepuram District. The writ petition was originally dismissed on 09.10.2002, but in writ appeal challenging the dismissal, the Division Bench directed the official respondents to consider their request, after hearing the petitioner as well as the alleged encroachers, by its order dated 10.02.2003.

5.Pursuant to the direction of the Bench, District Collector passed orders dated 17.08.2003 rejecting the plea of the refugees and accepting that of the petitioner, challenging which writ petitions bearing Nos.29235 and 29330 of 2007 were filed by two associations comprising Sri Lankan refugees questioning the order of the District Collector dated 17.08.2003, that by order dated 20.12.2007 came to be dismissed.

6.The petitioner also filed Special Leave Petitions before the Hon'ble Supreme Court challenging order dated



20.12.2007 that came to be dismissed. Third party litigation came to be filed by a group comprising the remaining persons from Sri Lanka in W.P.No.30329 of 2008 that also came to be dismissed. A writ appeal has been filed in W.A.No.309 of 2009 pending which interim protection has obtained by the appellants to the effect that they shall not be evicted from the premises under occupation by them, subject to no third party rights being created in favour of the encroachers.

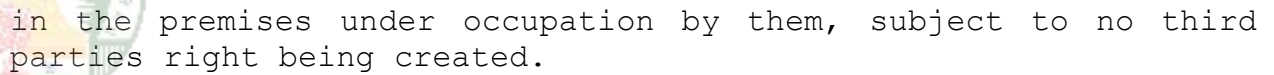
7.Likewise W.P.No.13941 of 2009 has also been filed by another set of Srilankan refugees seeking a declaration to the effect that the decision of the Collector dated 17.08.2003 was incorrect, which is stated to have been admitted and an order of interim injunction passed in favour of those petitioners on 21.07.2009.

8.To add to the multiplicity of the litigation already filed and pending, the Sri Lankan Repatriates Welfare Association moved a writ petition in WP.No.9092 of 2009 seeking a mandamus questioning the order of the Collector, that came to be dismissed on 31.10.2011, as against which, a Writ Appeal has been filed which was also dismissed on 21.03.2012.

9.The prayer in the present writ petition is for a mandamus to the Assistant Commissioner, Corporation of Chennai to dispose the representations made by the petitioner on 07.02.2012, 12.03.2012 and 20.06.2013 and consequently direct the respondents 1 to 3 not to collect property tax, water tax, sewerage tax and not to lay any road, drainage, rain water drainage in respect of the property covered in S.Nos.130, 131/A1A, 131/2A, 131/10 and 131/15 measuring 4.5 acres known as Ceylon Colony, Thiruvallur Nagar, Palavakkam Village, Tambaram.

10.When the writ petition is taken up today for hearing, no counter has been filed in the matter and Ms.Dhanisha would also state that she has no instructions in the matter. The prayer, for a mandamus, to the respondents to dispose representations seeking non-collection of statutory taxes cannot be countenanced.

11.This is for the reason that the status of the respondents and the legitimacy of their claim for occupancy is itself pending decision by this Court, admittedly. Even according to the petitioner, some of the writ petitions filed by the parties in this regard are as yet pending. Till such time, the writ petitions are decided and, with it, the status of the parties, the refugees have been permitted to continue residing



13. This apprehension is unnecessary as, needless to say any payment made by them would be subject to a final determination of the rights of the parties by the Court and such payments would not create any additional right in their favour over and above what they are already entitled.

15. In such circumstances and seeing at the present status of the matter is unknown to either party. I see no useful purpose to be served in keeping this writ petition pending on the docket any longer. Incidentally, the representations also do not complete any acknowledgment of receipt and hence the Court is also unaware as to whether the representations have, in fact, been filed before the authorities. This writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sub-Assistant Registrar

<https://hcservices.ecourts.gov.in/hcservices/>



To

1.The Commissioner,
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3.The Assistant Commissioner
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Puzhudiavakkam Main Road,
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+1 CC to M/s. Karthikaa Ashok, Advocate sr 9076

+1 CC to Mr.A.Jenasenan, Advocate sr 9368.

W.P.No.27528 of 2013 and
M.P.No.1 of 2013

SPD (CO)
SP (08/04/2022)