



W.P.No.30957 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2022

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.30957 of 2013 and
WMP.No.2167 of 2020

S.Sarup Chand

.. Petitioner

Vs.

1.The Government of India
rep.by the Secretary to Government
Department of Art. Culture and Language,
Government of India, New Delhi.

2.The Archaeological Survey of India,
rep.by its Superintending Archaeologist,
Chennai Circle, Government of India,
Fort St.George, Secretariat,
Chennai 9.

3.The Conservation Assistant,
Archaeological Survey of India,
Kancheepuram Sub Circle,
Kancheepuram.

4.The President,
Araiypakkam Village Panchayat,
Maduranthagam Taluk,
Kancheepuram District.

.. Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India
praying of issuance of Writ of Certiorari to call for the records of the 1st



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respondent in pursuant to G.O.No.47 dt 24.11.1945 (Archaeology) and quash Serial No.27 (Archaeology Department), in so far as the petitioner land in Survey No.304 of Araiypakkam Village, Madurantakam Taluk, Kancheepuram District, is concerned.

For Petitioner : Mr.AR.L.Sundaresan, Senior Counsel assisted
by Mr.M.Baskar

For Respondents : Mr.G.Karthikeyan
Standing Counsel for ASI For RR1 to 3
Mr.P.Gurunathan For R4

ORDER

The petitioner has filed this petition for issuance of writ of Certiorari to call for the records of the 1st respondent in pursuant to G.O.No.47, dt 24.11.1945 and quash Serial No.27 (Archeology Department), in so far as the petitioner land.

2. The case of the petitioner is that he is the owner of the large extent of land in S.F.No.304, Araiypakkam Village, Madurantakam Taluk, Kancheepuram District, to an extent of 8.30 acres from 2008 onwards and he had purchased the said property only to develop the same into housing sites and he also converted the property into house sites and got approval from the President of Panchayat vide order dated 04.06.2010 for the layouts



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and further majority of the plots have already been sold to various third parties by engaging the assistants of Marketing Agency. While so, all of a sudden, the 2nd respondent on 16.12.2010 sent a notice to the Marketing Agency, as if the lands referred in S.F.No.304 has been declared as a site of national importance by the Government of India in 1946 and further in the said notice it was stated that no construction activity should be carried out in the said survey number and if any violation, the same will be contrary to the Ancient Monuments and Archaeological Sites and Remains Act, 1958 and Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Act, 2010. Therefore, the petitioner made representation to the respondents 2 and 3 and the 2nd respondent vide his proceedings dated 29.05.2013, had informed that the land is centrally protected national site and no construction / earth quarry activities are permitted. The petitioner after verifying the records, came to understand that in pursuant to G.O.No.47, dt 24.11.1945 (Archeology Department), the Government of India in the official gazette declared the land in S.F.no.304 as an ancient monument in exercise of power conferred by Sub Section 1 of Section 3 of Ancient Monument and Preservation Act, 1904. In order to



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quash the said notification, the petitioner is before this Court.

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3. Though very many grounds have been raised by the learned Senior counsel appearing for the petitioner, he limited his arguments to the extent that though notification was issued in the year 1945 and declared the petitioner's land in Serial No.27 of the said notification that S.F.No.304 as 'Megalithi Cists and Cairns in groups', subsequently more than 25 of such properties have been released from the said notification and hence, in order to avail such benefit, this Court may grant liberty to the petitioner to make fresh representation before the 2nd respondent for exclusion of his lands from the purview of the said serial no.27 of the notification, within a reasonable time as fixed by this Court.

4. The learned Assistant Solicitor General appearing for the respondents 1 to 3 submitted that if any such representation is received, the same will be considered in the manner known to law and appropriate order will be passed.



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5. In view of the consent expressed by the respective learned counsels appearing on either sides, this Court without interfering in the Government Order impugned in this writ petition, grants liberty to the petitioner to file appropriate application before the 2nd respondent. Further if any such application is received, the 2nd respondent is directed to consider the same and pass appropriate orders. Further it is open to the petitioner to raise all contentions put forth in this writ petition before the 2nd respondent for necessary consideration.

6. This Writ Petition is disposed of with the above observations.
No costs. Consequently connected miscellaneous petition is closed.

08.11.2022

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M.DHANDAPANI,J.

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To

- 1.The Secretary to Government,
Government of India,
Department of Art. Culture and Language,
Government of India, New Delhi.
- 2.The Superintending Archaeologist,
The Archaeological Survey of India,
Chennai Circle, Government of India,
Fort St.George, Secretariat,
Chennai 9.
- 3.The Conservation Assistant,
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Kancheepuram Sub Circle,
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- 4.The President,
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