



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2022

CORAM :

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

THE HON'BLE MRS.JUSTICE N.MALA

W.A.NOS.1126 AND 1127 OF 2022

Annai Lourd Educational Trust
Rep. by its Founder Trustee/Secretary
Annai Lourd Schools
D.Varghese
No.1, School road
Rajiv Gandhi Nagar
Pattabiram, Chennai 600 072.

... Appellant
in both the WAs

Vs.

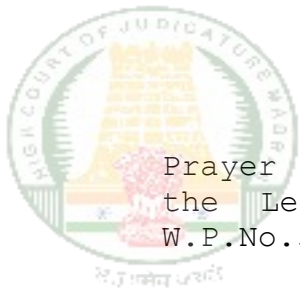
1. The Secretary to Government
Revenue Department, Fort St. George
Chennai 600 009.
2. The Collector
Collector's Office, Thiruvallur.
3. The Tahsildar
Avadi Taluk Office
Chennai 600 054.

... Respondents
in both the WAs

Prayer in W.A.No.1126 of 2022: Appeal filed under Clause 15 of the Letters Patent against the order dated 23.11.2021 in W.P.No.10098 of 2019 on the file of this Court.

Prayer in W.P.No.10098 of 2019:-

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari Mandamus to call for records of the 3rd respondent dated 30.07.2016 in Na.Ka.05/2016/A1 and quash the same.



Prayer in W.A.No.1127 of 2022: Appeal filed under Clause 15 of the Letters Patent against the order dated 23.11.2021 in W.P.No.3401 of 2019 on the file of this Court.

Prayer in W.P.No.3401 of 2019:-

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 2nd respondent for passing the orders for permanent allotment of the land measuring 0.80 acres in part of S.No.210 (T.S.No.16) and S.No.239 (T.S.No.13) for the petitioner school play ground purposes within time frame stipulated by this Hon'ble Court in accordance with law.

For Appellant in both WAs	:	Mr.A.V.Arun Ganesh
For Respondents in both WAs	:	Mr.P.Muthukumar State Government Pleader Assisted by Mr.K.M.D.Muhilan Government Advocate for respondents 1 to 3

COMMON JUDGMENT

(Delivered by the Hon'ble Chief Justice)

The writ appeals have been filed assailing the order dated 23.11.2021, whereby the writ petitions preferred by the writ petitioner seeking a direction for permanent allotment of land measuring 0.80 acres in Survey Nos.210 and 239, for usage as playground of the school was dismissed. The writ petitions were dismissed by the learned Single Judge finding that the land is "Odai Poramboke" and, thus, cannot be made available for allotment for any other purpose. Finding that there are encroachments, an appropriate direction was given to remove the encroachments.

2. The challenge to the order of the learned Single Judge is precisely on the ground that the Odai does not exist for the last many years and otherwise an order to allow use of the land of Odai for the playground was issued by the Tahsildar. Claiming right based on it, the writ petitions were filed for allotment of land, but finding no right in favour of the petitioner to seek allotment of land in a water body, the writ petitions were dismissed.



3. The petitioner cannot seek allotment of the land for playground unless their right is shown for the aforesaid purpose. It is more specific when the land is a water body and entries to that effect exist in the revenue records. The petitioner did not dispute the land in question to be a water body and therefore the learned Single Judge did not find any ground to accept the prayer made by the petitioner.

4. It may be that after the rains and few months thereupon water may not exist in the water body and the land is used for other purpose illegally and, at times, even the encroachments are being made. But, that by itself, does not confer any right on the encroacher to seek allotment of the land.

5. The learned Single Judge had even taken note of the order of injunction passed by the civil court, pursuant to which construction of the houses were made. The inaction of the respondents was deprecated, as it would affect the water body which is required to be protected. Serious lapse on the part of the government officers in taking action to remove the encroachments in the water body was found. Rather, an order was issued by an incompetent officer like the Tahsildar to allow usage of a water body as playground and, therefore, a direction was given by the learned Single Judge for initiation of disciplinary action against the officer concerned.

6. We do not find any error in the order passed by the learned Single Judge, so as to cause interference. Rather, to protect the water body, the order has rightly been passed and the directions given therein are required to be complied by the respondents. Accordingly, the writ appeals fail and are dismissed. Consequently, the connected miscellaneous petitions in C.M.P.Nos.6935 and 6936 of 2022 are closed. No costs.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

kk/drm

To

1. The Secretary to Government
Revenue Department, Fort St. George
Chennai 600 009.



2. The Collector
Collector's Office, Thiruvallur.

3. The Tahsildar
Avadi Taluk Office
Chennai 600 054.

+1cc to Mr.A.V.Arun Ganesh, Advocate, S.R.No.35038

W.A.Nos.1126 and 1127 of 2022

SKM(CO)
RLP(22/06/2022)