



W.P(MD)Nos.19764 of 2021 and 6862 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE PARESH UPADHYAY

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)Nos.19764 of 2021 and 6862 of 2022

and W.M.P. (MD) No.5274 of 2022

W.P(MD) No.19764 of 2021:

S.Meenatchi

.. Petitioner

Vs

1.The Chief Secretary,
Secretariat, Fort St.George,
Chennai.

2. The District Collector,
Dindigul District, Dindigul.

3. The Block Development Officer,
Batlagundu Union, Dindigul District.

4. The Revenue Divisional Officer,
Dindigul, Dindigul District.

5. The Tahsildar,
Nilakottai Taluk, Dindigul District.

6. The Sub Registrar,
Nilakottai Sub Registrar Office,
Nilakottai, Dindigul District.

7. The Village Administrative Officer,
Nadakottai Village Panchayat,
Nadakottai, Nilakottai Taluk,
Dindigul District.

8.The Taluk Surveyor,
Nilakottai Taluk, Dindigul District.

9. The Director,
Robin Power Solution,
Chinnupatti, Batlagundu Union,
Nilakottai Union,

<https://hcservices.courts.gov.in/hcservice5/>



Dindigul District.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents 1 to 7 to retrieve the Boomidhana lands, measuring nearly 100 acres, typically Nanja comprised in S.Nos.401, 402, 1A1, 1A6, 1A8, 3, 4B, 2, BA1, BA2, 4C, 3, 4A, 6A, 7, 2, 259, 262-3, 45, 318, 319, 320, 321, 321-1, 2B, 321-2B2, 2B3, 3, 4, 324-4, 323-8A1, 8A2, 326-3, 328-10B1, 11A, 11B, 11C, 12, 329-2A, 2B1, 2B2, 252-6C, 6F, 253-2A, 2B, 254-1A, 1B, 255-1A, 1G, 263, 149-1, 152-2, 160, 369-3, 373-2, 275-2, 380-1, 308-1B1, 338-1C, 9A, 244-2A, 244-2B, 244-3A, 244-3B, 167-1E, 2, 170-4C, 7B, 176-1, 176-3, 198, 189-5, 8, 190-1V, 210, 193-4B, 2B1, 193, 366, 363-1, 2, 365-1B, 1A situated at Nadakottai, Batlagundu Union, Nilakottai Sub Register, Nilakottai Taluk, Dinidgul District, from the illegal clutches of 9th respondent and ensure that the land be under the possession and enjoyment of real beneficiaries under the Boomidhana movement on the basis of representation dated 06.10.2021.

W.P(MD) No.6862 of 2022:

S.Meenatchi

.. Petitioner

Vs

1.The Revenue Divisional Officer,
Dindigul District.

2. The Tahsildar,
Nilakottai Taluk, Dindigul District.

3. M/s.F.Robin Power Solutions Private Limited,
Rep. by its General Manager, S.Johnson,
6/192, Sf.No.401/3A1, Combaipatty Village,
Main Road Chinnupatti, Reddiyapatti (PO),
Nilakottai Taluk, Dindigul District.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to direct the second respondent Tahsildar, Nilakottai to measure the properties encroached upon by the third respondent company of the Government Poramboke, Streams, Ponds, regulat pathways, wells and all other Panchayat properties and the lands standing in the name of Nadakottai Gramadhana Sarvodaya Co-Operative Society.

For Petitioner

Mr.K.Surendran (in both W.Ps)



For Respondents

Mr.M.Siddharthan,
Additional Govt.Pleader for R1 to
R8
Mr.M.Ajmal Khan,
Senior Counsel for R9
in W.P(MD) No.19764 of 2021
Mr.M.Siddharthan,
Additional Govt.Pleader for R1 & R2
in WP(MD).No.6862 of 2022
Mr.M.Ajmal Khan,
Senior Counsel for R3 in WP(MD).No.
6862 of 2022

COMMON ORDER

[Made by PARESH UPADHYAY, J.]

1. Both these petitions are by the same person.
2. The prayer clause in W.P(MD) No.19764 of 2021 reads as under:-

"Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents 1 to 7 to retrieve the Boomidhana lands, measuring nearly 100 acres, typically Nanja comprised in S.Nos.401, 402, 1A1, 1A6, 1A8, 3, 4B, 2, BA1, BA2, 4C, 3, 4A, 6A, 7, 2, 259, 262-3, 45, 318, 319, 320, 321, 321-1, 2B, 321-2B2, 2B3, 3, 4, 324-4, 323-8A1, 8A2, 326-3, 328-10B1, 11A, 11B, 11C, 12, 329-2A, 2B1, 2B2, 252-6C, 6F, 253-2A, 2B, 254-1A, 1B, 255-1A, 1G, 263, 149-1, 152-2, 160, 369-3, 373-2, 275-2, 380-1, 308-1B1, 338-1C, 9A, 244-2A, 244-2B, 244-3A, 244-3B, 167-1E, 2, 170-4C, 7B, 176-1, 176-3, 198, 189-5, 8, 190-1V, 210, 193-4B, 2B1, 193, 366, 363-1, 2, 365-1B, 1A situated at Nadakottai, Batlagundu Union, Nilakottai Sub Register, Nilakottai Taluk, Dinidgul District, from the illegal clutches of 9th respondent and ensure that the land be under the possession and enjoyment of real beneficiaries under the Boomidhana movement on the basis of representation dated 06.10.2021."

3. The prayer clause in W.P(MD) No.6862 of 2022 reads as under:-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to direct the second respondent Tahsildar, Nilakottai to measure the properties encroached upon by the third respondent company of



the Government Poramboke, Streams, Ponds, regulat pathways, wells and all other Panchayat properties and the lands standing in the name of Nadakottai Gramadhana Sarvodaya Co-Operative Society."

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4. It is noted that, W.P(MD) No.6862 of 2022 was firstly listed for hearing on 12 April 2022 and on that day, attention of the Court was invited to the pendency of writ petition being W.P(MD) No.19764 of 2021 which may have bearing on this petition, therefore both the petitions were directed to be tagged and listed for hearing. That is how these two petitions are before us today.

5. The prayer clauses are quoted above. At the outset, learned advocate for the petitioner has requested that, the petitioner be permitted to withdraw W.P(MD) No.19764 of 2021. Since the said petition is in the form of public interest litigation, we have thought it proper to examine the merits thereof, so that if any public interest is involved, the coercion if any on the petitioner, who is a lady, can be ruled out.

6. We have heard Mr.K.Surendran, learned advocate for the petitioner, Mr.M.Siddharthan, learned Additional Government Pleader appearing on behalf of respondents 1 and 2 and Mr.M.Ajmal Khan, learned Senior Advocate appearing on behalf of the contesting ninth / third respondent.

7. Learned advocate for the petitioner has submitted that, the respondent company (3rd respondent in W.P(MD) No.6862 of 2022 and 9th respondent in W.P(MD) No.19764 of 2021) has encroached the land which was originally Bhoodan land, which the Government could not have dealt with for the purpose other than the one for which it was got and in any case, the activities carried out by the private respondent is illegal and therefore these petitions need to be entertained. During the course of hearing, learned advocate for the petitioner has also submitted that the illegality being large scale, this Court should appoint a Commissioner and status quo of 6th January 2022 should be restored. It is submitted that these petitions be entertained.

8. On the other hand, Mr.Ajmal Khan, learned Senior Advocate for the respondent company (third respondent in W.P(MD) No.6862 of 2022 and ninth respondent in W.P(MD) No.19764 of 2021) has drawn the attention of this Court to various proceedings taken out by this petitioner, one by one and has contended that, these petitions are not bonafide litigations. To support his argument, attention of this Court is also invited to the decision of this Court recorded on W.P (MD) No.3148 of 2022 dated 01 April 2022. Specific reliance is placed on paragraphs 33 and 34 of the order and it is submitted that this petition be dismissed. Attention of the Court is also invited to the order dated 01 November 2021 recorded on W.P(MD) No.19706 of



2021. Submissions are also made which are akin to the contentions recorded in order dated 01 April 2022 more particularly, para:14 thereof. It is submitted that these petitions be dismissed.

9. Learned Additional Government Pleader has submitted that, it is the stand of the State Authorities that there is no encroachment by the private respondent.

10. Having heard learned advocates for the respective parties and having considered the material on record this Court finds as under:-

10.1 The prayer clause of both the petitions are noted above. Since the principal submission is also to the effect that, status quo as it prevail prior to 06 January 2021 be restored, it was necessary to enquire what is the relevance of that date. For this purpose, reference needs to be made to the order dated 01 November 2021 recorded on W.P(MD) No.19706 of 2021. Relevant part of the said order reads as follows:-

"4.In view of the submission made by the learned Additional Public Prosecutor and the second respondent, the petitioner shall place all the requirements that has been set out for installing the above said power plant, after getting proper instructions from the District Collector, the second respondent may provide police protection, if any necessity arises and if any trouble is apprehended at the hands of the Villagers."

10.2 The appointment of Court Commissioner etc., as sought to be canvassed, if viewed vis-a-vis the findings recorded by this Court in W.P(MD) No.3148 of 2022, we find that the contention on behalf of the respondent company that the present litigation is not bonafide litigation would assume significance and relevance. The findings of this Court more particularly, in paragraphs 33 and 34 thereof read as under:-

"33.The eighth respondent has also raised a contention that the petitioner is known for demanding illegal gratification from various entities to unjustly enrich herself. Though the said contention has been raised without any documentary evidence, this Court cannot totally ignore the said contention to be false, as the conduct of the petitioner raises some suspicion on the minds of the Court. However, the present issue is not one concerning the integrity of the petitioner and therefore, there is no necessity for this Court to make a roving enquiry against those allegations levelled by the eighth respondent in their counter



34.The petitioner is a Panchayat President and is a responsible person in the Society, who has been vested with certain statutory powers. She must act responsibly, while discharging her function and should not have any personal interest. The petitioner has now challenged the impugned communication sent by the third respondent/Block Development Officer, which is not an adverse order passed against the petitioner, but is only a communication intimating the petitioner that the attachment notice issued by her against the eighth respondent is not in accordance with law, as it has been issued without the approval of the District Collector and other revenue officials."

10.3 Further, the comparison of the prayer clause of both these petitions and request that the petitioner be permitted to withdraw W.P.(MD) No.19764 of 2021 coupled with the fact that, the said petition was filed through different advocate and subsequently there is change of vakalat so far that petition is concerned, tilts balance against the petitioner to hold that this litigation is not bonafide. We find that, though the legality of the order dated 01 April 2022 recorded on W.P(MD) No.3148 of 2022 is not the subject matter of these writ petitions, that order speaks a lot about the intentions of the petitioner.

10.4 On overall consideration we are satisfied that, W.P. (MD) No. 19764 of 2021, which even otherwise sought to be withdrawn is not in public interest and the second petition is only the alternative plan which is not styled as public interest litigation. But in any case, both these petitions are filed by the same person who holds the office of Village President and she is aggrieved by the action of the statutory authorities. In this back ground, we are not inclined to exercise discretion under Article 226 of the Constitution of India to entertain such petitions, at the hands of such a litigant. Since it is contended that the petitioner is a lady and belongs to relatively backward class, we have not imposed costs.

11. These writ petitions are dismissed. No costs. Consequently, connected miscellaneous petition would not survive.

Sd/-

Assistant Registrar (AD-II)

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/ /2022

Sub Assistant Registrar(CS)

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To

- 1.The Chief Secretary,
Secretariat, Fort St.George,
Chennai.
2. The District Collector,
Dindigul District, Dindigul.
3. The Block Development Officer,
Batlagundu Union, Dindigul District.
4. The Revenue Divisional Officer,
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7. The Village Administrative Officer,
Nadakottai Village Panchayat,
Nadakottai, Nilakottai Taluk,
Dindigul District.
- 8.The Taluk Surveyor,
Nilakottai Taluk, Dindigul District.

+2 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-20035[F],20038 dated 21/04/2022)

+1 CC to M/s.SPL.GP (SR-20140[F],20112 dated 21/04/2022)

W.P(MD)Nos.19764 of 2021 and 6862 of 2022
19.04.2022

SR(CO)
KB(29.04.2022) 7P 12C