



W.P.(MD)No.24352 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	28/11/2022
Delivered on	13/12/2022

CORAM

**THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD**

W.P.(MD)No.24352 of 2022

D.Devasahayam

.. Petitioner

Versus

- 1.The Principal Secretary to Government,
Department of Revenue and Disaster Management,
Fort St. George,
Chennai - 9.
- 2.The Commissioner of Land Administration,
Commissioner of Land Administration,
Chepauk, Chennai - 5.
- 3.The District Collector,
Madurai District,
Madurai.
- 4.CSI Madurai Ramnad Diocese,
Represented by its Bishop,
162, East Velli Street,
Madurai - 1.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the second respondent to resume the properties in survey numbers 163C to the extent of 9.75 acres; 163B to the extent of 1.60 acres; 163G to the extent of 13.75 acres and 334 to the extent of 6 acres; totally to the extent of 31.10 acres, Tallakulam Village, Madurai Taluk, Madurai District to Government based



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on the assignment order and based on the petitioner's representation dated 22.08.2022 according to law within the time to be stipulated by this Court.

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For Petitioner : Mr.T.A.Ebenezer

For Respondents : Mr.P.Thilak Kumar
Government Pleader (R1 to R3)

Mr.Ajmal Khan, Senior Advocate
for M/s.Ajmal Associates (R4)

ORDER

R. MAHADEVAN, J.

The petitioner has filed this writ petition in the nature of public interest litigation, seeking for a direction to the second respondent to resume the properties in S.No.163C, measuring an extent of 9.75 acres, S.No.163B measuring an extent of 1.60 acres; S.No.163G measuring an extent of 13.75 acres and S.No.334 measuring an extent of 6 acres, totalling 31.10 acres in Tallakulam Village, Madurai Taluk, Madurai District and hand over the same to the Government, based on the assignment order and his representation dated 22.08.2022, within a time to be stipulated by this Court.

2. It is alleged in the writ petition that by Order No.3581, Revenue, dated 29.11.1912, the subject lands measuring a total extent of 31.10 acres in Tallakulam Village, Madurai Taluk, Madurai District were assigned by the Government to American Board of Commissioners for Foreign Missions (ABCFM), which is an



American Christian Missionary Organization, for the purpose of establishing an industrial home for needy women, subject to certain conditions viz., ABCFM shall pay the entire market value fixed by the Collector; rate fixed by the Collector will be liable for periodical revision; land shall be used for industrial and charitable purposes and if not used for such purposes, the Government may resume it; and in case of resumption, compensation payable thereof shall not exceed the initial cost or the value at the time of resumption of any buildings erected or other works by ABCFM, whichever is less.

3. The petitioner also alleged that thereupon, the name of ABCFM was changed into United Church Board for World Ministries and it abided the conditions of assignments by cultivating the lands and used its income for industrial home for orphans and destitute till 1973. While so, by registered transfer deed No.2297/1974 dated 31.12.1973, some of the properties of United Church Board for World Ministries were illegally transferred to Church of South India Trust Association (CSITA) in violation of the Indian Church Act, 1927 and The Places of Worship (Special Provisions) Act, 1991. According to the petitioner, the CSI is a registered company with effect from 26.09.1947 under section 26 of the Indian Companies Act, 1913 and continued under section 25 of the Indian Companies Act, 1956 and section 8 of the Indian Companies Act, 2013; and after the transfer of assigned properties to the CSITA in 1973, the said company failed to follow the conditions of assignment.



4. It is the further case of the petitioner that one of the properties viz., S.No. 163G measuring an extent of 13.75 acres has been allotted revised survey numbers 88/1B1A, 88/1B1B, 88/1B1C, 88/1B2B and 88/1B2A and town survey numbers 6/3, 6/6, 6/2, 6/4 and 6/5 respectively to the extent of 0.04, 0.07, 12.52, 0.37 and 0.27 acres respectively. One Pauline Sathyamoorthy and Kasthuri in the capacity as Secretary and Treasurer of CSITA, with an intention to unlawfully sell the assigned properties, created a power of attorney in favour of Christopher Asir and Saurirayan in respect of the properties in S.Nos.88/1B1A, 88/1B1B and 88/1B1C measuring an extent of 7 acres and granted permission to sell the same to the third parties. Based on the same, the said Christopher Asir and Saurirayan illegally sold the properties to an extent of 6.74 acres to the third parties, vide registered sale deeds Nos.569/2008, 928/2008 and 929/2008, on the file of the SRO, Tallakulam. Subsequently, the properties covered in the said sale deeds were purchased by different parties for valuable consideration. Thus, according to the petitioner, the CSITA and its directors committed criminal breach of trust, cheating with dishonest intention and fabrication of documents and hence, they are liable for prosecution by the Serious Fraud Investigation Office. Pointing out the same, the petitioner made a complaint to the Central Bureau of Investigation on 25.01.2020. Since the same was not considered, he filed WP(MD).No.1507 of 2021, which is pending.

5. While so, the petitioner's grievance is that the properties belonging to the Government were assigned for specific purposes with default clause. However, the



same have been sold to third parties for several crores of rupees. Therefore, he made a representation dated 22.08.2022 to the respondent authorities requesting to resume the lands from the fourth respondent and hand over the same to the Government, as per the assignment order. Finding no effective action on the said representation, the petitioner is before this court with the present public interest litigation.

6. Reiterating the averments made in the writ petition, the learned counsel for the petitioner submitted that the subject lands were originally assigned to ABCFM for the purpose of establishing an Industrial home for needy women and the same were subsequently, brought under the control of the CSITA, however, the members of which, sold some of these properties fraudulently to the third parties for valuable consideration, thereby earning huge monies. The learned counsel further submitted that the paramount condition stipulated at the time of assigning the land to ABCFM was that the properties shall be used for industrial and charitable purposes and if not used for such purposes, the Government may resume it. Therefore, the learned counsel prayed to this court that the respondent authorities may be directed to resume the properties assigned to CSITA and hand over the same to the Government.

7. Per contra, the learned senior counsel appearing for the fourth respondent submitted that the allegations raised by the petitioner are totally false and misleading to this court. It is further submitted that the Church of South India Trust Association



(CSITA) is a registered Company under Section 26 of the Companies Act, 1913; deemed to be a Company registered under Section 25 of the Companies Act, 1956; and now, under Section 8 of the Companies Act, 2013 to hold the properties of CSI as Trustee thereof. Further, it is a democratic organization with inbuilt checks and balances in the matter of administration of their religious and charitable activities. Thus, according to the learned senior counsel, the fourth respondent has acted in terms of the conditions stipulated in the assignment order and they have not committed any violation, as alleged in the writ petition.

8. The learned Government Pleader appearing for the respondents 1 to 3 would submit that the representation of the petitioner dated 22.08.2022 has already been forwarded to the second respondent, who is the competent authority to consider the same, and the second respondent will consider the claim of the petitioner and pass orders on merits and in accordance with law, within a time to be stipulated by this Court.

9. Heard the learned counsel appearing for all the parties and also perused the materials available on record.

10. It is the specific case of the petitioner that the subject lands were originally assigned by the Government, to the ABCFM, which is an American Christian Missionary, for the purpose of establishing a home for needy women, subject to



certain conditions, *vide* Order No. 3581, Revenue dated 29th November, 1912; and the same were transferred to the CSITA, in the year 1973. Thereafter, the members of the CSITA created forged documents and sold some of the properties fraudulently to the third parties for valuable consideration, in violation of the conditions stipulated in the assignment order. Though complaint to CBI and representation to the respondent authorities, were made by the petitioner, seeking to take appropriate action and resume the lands assigned by the government, both the attempts did not evoke any fruitful result. Therefore, this writ petition.

11. On the contrary, the allegations raised by the petitioner have been stoutly refuted on the side of the fourth respondent and according to them, they have acted only in terms of the conditions stipulated in the assignment order.

12. While appreciating the rival contentions, it could be seen that the land was granted for the purpose of establishing an Industrial Home for needy women. The grant was subjected to the condition that the land shall be used "only for industrial and charitable purposes". The condition also provides for the resumption of land, if the land is not used or ceases to be used for such purposes and the compensation payable in the event of resumption.

13. In this context, it would be apropos to refer to the Board Standing Order No.15(1-A)(i), which stipulates that lands granted by the Government are governed



by the Government Grants Act, 1895. Under section 3 of the Government Grants Act, 1895, the conditions and limitations contained in the grant shall be given effect, notwithstanding anything contrary and the Government has discretion to fix conditions in grants and enforce the same.

14. The purport of sections 2 and 3 was explained by the Hon'ble Supreme Court in ***M/s. Hajee SVM Mohammed Jamaludeen Bros and Co. v Government of Tamil Nadu [1997 (3) SCC 466]*** and the same is usefully extracted hereunder:

"The combined effect of the above two sections of the Grants Act is that terms of any grant of terms of any transfer of land made by a government would stand insulated from the tentacles of any statutory law. Section 3 places the terms of such grant beyond the reach of any restrictive provision contained in any enacted law or even the equitable principles of justice, equity and good conscience adumbrated by common law if such principles are inconsistent with such terms. The two provisions are so framed as to confer unfettered discretion on the government to enforce any condition or limitation or restriction in all types of grants made by the government to any person. In other words, the rights, privileges and obligations of any grantee of the government would be completely regulated by the terms of the grant, even if such terms are inconsistent with the provisions of any other law."

Thus, the limitations, conditions and restrictions contained in the grant will continue to operate irrespective of anything contrary in the Transfer of Property Act, 1883 or any other statute.

15. Such being the legal position, this court, considering the facts and circumstances of the case, wherein, the petitioner raised serious allegation against



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the fourth respondent, deems it appropriate to direct the second respondent to consider the petitioner's representation dated 22.08.2022, conduct enquiry and verify as to whether the conditions stipulated in the assignment order have been violated by the fourth respondent and thereafter, pass appropriate orders, on merits and in accordance with law, that too, after affording due opportunities to all necessary parties, within a period of twelve weeks from the date of receipt of a copy of this order.

16. With the above direction, the Writ Petition is disposed. There is no order as to costs.

[R.M.D., J.] [J.S.N.P., J.]
13.12.2022

Speaking / Non-speaking order

Internet : Yes.

Index : Yes

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Pre-delivery order in
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