



WEB COPY



W.P.No.18823 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.18823 of 2013

Discharged Prisoner's Aid Society,
Rep. By its Hon'y Secretary,
Door Nos.1093, 1094 Avinashi Road,
Pappanaickenpalayam,
Coimbatore- 641 037.

...Petitioner

Vs.

1.The District Collector,
Office of the District Collector,
Coimbatore.

2.G.Muthuraj
(R2 impleaded as per order dated 06.01.2015)

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order in proceedings No. Na. Ka. 30385/ 2006/B4, dated 29.06.2013 passed by the respondent forbearing the respondent from any way interfering with the possession of a land to an extent of 24000 Sq.ft., in T.S. No.1012/2, Krishnarayapuram Village of Coimbatore North Taluk and quash the same.



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For Petitioner : Mr.S.V.Pravin Rathinam
For Respondent 1 : Mr.R.Ramanlaal,
Additional Advocate General,
Assisted by
Mr.R.Siddharth,
Government Advocate

ORDER

The writ on hand has been instituted questioning the validity of the order passed by the District Collector, Coimbatore in proceedings dated 29.06.2013 resuming the Government land assigned in favour of the writ petitioner.

2. The petitioner is a society started with a motive to help the discharged prisoners to get rid of the stigma “Prisoners” and to earn them some respect in the society. The petitioner states that in order to reform the prisoners, they have started the society and based on their application, a conditional assignment of Government property was granted to them.

3. The petitioner in due course, diverted from the purpose for which the Government assigned the land and rented out the property for



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commercial shops. The petitioner in violation to the conditional assignment, rented out the property to Coffee shops, banks, bakeries, bata store etc.,

4. The first respondent during the inspection found that the Government assigned land and property has not been utilised for the purpose of which it was assigned. Thus, the District Collector initiated action and issued the impugned order resuming the Government Property. The assignment conditions stipulated in proceedings dated 16.12.1927 are as under:

“1. The land shall be used for the purpose of a prisoners house and for no other purposes.

2. The building shall be constructed within one year from the date of grant.

3. The Government may resume the lands wholly or in part with any buildings thereon, in the event of infringement of any of the conditions of the grant or if in the opinion of the Government the land is required for a public purpose or for conducting mining operations.

4. In the event of such resumption if there are any building on the land, the Government may at their option either (a) purchase the buildings or (b) allow the grantee to



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purchase the land at its value on the date of sale or (c) direct the grantee to remove the buildings, and as on.”

5. Since the District Collector received a complaint regarding the misuse of the Government assigned land, a field inspection was conducted in the alienated land. The authorities found that the assigned properties were rented out to bank ATM, Sweet Stall, bakery, bata store etc. Consequently, a show cause notice was issued to the petitioner as to why the alienation order shall not be cancelled for violation of the assignment conditions.

6. The Secretary of the petitioner society in his reply dated 14.06.2013 stated that in order to collect funds, an executive committee meeting was conducted on 23.11.2004 to ratify the decision pertaining to the possibilities of fund increment by renting the premises to Nationalised Banks etc., Thus, an advertisement was published in the Newspaper and the State Bank of India offered to take the premises on rent. Accordingly, the premises were rented out to the State Bank of India. The Secretary in his reply further stated that the Sweet Stall is functioning from 01.08.2011.



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7. Since the violation of conditions were expressly admitted by the petitioner society, the District Collector scrutinised the conditions imposed at the time of alienation of the Government property and the reply and passed an order, resuming the Government land on the ground that the petitioner has violated the assignment conditions.

8. The District Collector has considered the possibility of running the society for the welfare of the prisoners who were released. The Collector made a finding that there are lot of traffic and congestion problems in the area. Therefore, it is no longer a safe place for Juveniles. Growingly, it has become difficult to the parent of Juveniles to come and see their wards. Further shifting of Juvenile home to a place outside the city will lead to more spacious location with play ground and so on for the Juveniles. Thus, the District Revenue Officer was directed to look into an alternative land outside the town to locate the Juvenile home. Considering the multiple factors and reasons and considering the violations of assignment conditions committed by the petitioner, the District Collector ordered for resumption of the assigned Government property and consequently, the Tahsildar was



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directed to evict the Sweet stall and State Bank of India's ATM immediately.

9. Learned Additional Advocate General made a submission that due to the pendency of the writ petition, the authorities are not in a position to take possession of the subject property. Now the property assigned in favour of the petitioner on condition is to be utilised for public purposes, since the property is in the main locality. More so, the petitioner is not utilising the land for the purpose for which it was assigned in the year 1927.

10. Learned counsel for the petitioner made a submission that an enquiry is to be conducted in this regard. The office of the petitioner is functioning in the same building.

11. Such an enquiry after violating the assignment conditions become unnecessary, since show cause notice was issued by the District Collector during the year 2013 itself and the petitioner had also submitted a reply on 14.06.2013. The procedures as contemplated were complied with and the petitioner was afforded with an opportunity to defend their case.



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12. Delay in the disposal of the writ petition would not constitute a ground to claim fresh enquiry by the petitioner and admittedly, the petitioner has also violated the assignment conditions and even in their reply, they have conceded the facts regarding violation.

13. That being the factum, the petitioner is not entitled for the assigned Government property and thus, the first respondent is directed to evict the petitioner based on the impugned order and resume the land and utilise the same for public purposes in the manner known to law.

14. Accordingly, the writ petition stands dismissed. No costs.

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Index: Yes

Speaking Order

Neutral Citation: Yes



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To

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S.M.SUBRAMANIAM, J.

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