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WP No.25620 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON 23-08-2023

ORDERS PRONOUNCED ON 04-09-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.25620 of 2015

And

MP Nos.1 to 3 of 2015

Mount Pleasant Social Club,
Represented by its President,
Coonoor.

... Petitioner

Vs.

1.The Special Commissioner and Commissioner
of Land Administration,
Chepauk,
Chennai-5.

2.The District Collector,
Nilgiris District,
Nilgiris.

3.The Tahsildar,
Coonoor,
Nilgiris District,
Nilgiris.



4. Secretary to the Government,
Revenue Department,
Fort St. George,
Chennai-600 009.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the fourth respondent pertaining to order bearing G.O.Ms.No.262 [Revenue LD1 (2)] issued by the fourth respondent dated 15.07.2015.

For Petitioner	: Mr.Srinath Sridevan, Senior Counsel for Mr.T.K.Bhaskar.
For Respondents	: Mr.R.Ramanlaal, Additional Advocate General Assisted by Mr.T.Venkatesh Kumar, Special Government Pleader.

ORDER

The lis on hand has been instituted challenging the Government Order issued in G.O.Ms.No.262, Revenue Department, dated 15.07.2015, resuming back the land leased out to the petitioner-Mount Pleasant Social Club.

**CONTENTIONS OF THE PETITIONER-CLUB:**

2. The petitioner-Club is a Social Club in Coonoor, started promoting sports like Tennis and Badminton for the benefit of the middle class people living in and around Coonoor. It was stated in the year 1930 and the Club is located in 1.50 Acres of land in Old Survey No.A.119/A, New Survey No.C/7/17 of Coonoor Town assigned by the Government.

3. The second respondent-District Collector passed an order on 05.12.2003, cancelling the assignment granted in favour of the petitioner-Club based on the report given by the Revenue Divisional Officer, Coonoor.

4. The petitioner-Club preferred an appeal before the first respondent, who in turn passed an order on 21.10.2005 rejecting the appeal based on the evidence privately received from some third parties. The petitioner-Club filed WP No.2537 of 2006, challenging the order of the Special Commissioner of Land Administration. This Court passed final orders on 27.08.2010, directing the Authorities to consider the representation submitted by the petitioner-Club and pass orders, within a period of three months from the date of receipt of a copy of the said



representation.

5. The petitioner-Club states that on 16.04.2015, they have received letter dated 16.04.2015, informing that the representation submitted by the writ petitioner would be considered on 05.05.2015, and the petitioner-Club requested for an adjournment. The matter was taken up on 11.06.2015.

6. The learned Senior Counsel appeared on behalf of the petitioner argued the matter. Thereafter, the petitioner-Club has filed written arguments. Suddenly on 14.08.2015, the Tahsildar, Coonoor visited the petitioner-Club and attempted to seal the same. The petitioner-Club said that they have not received the copy of the order on 14.08.2015. The copy of the said order was served on the petitioner-Club subsequently. Under those circumstances, the petitioner-Club has chosen to file the present writ petition.

7. The learned Senior Counsel appearing on behalf of the petitioner-Club mainly contended that the reasons stated for cancellation of



the assignment and the resumption of lands, are untenable. The reason stated earlier was repeated in the impugned order issued by the Government and thus the Authorities Competent had not applied their mind. The learned Senior Counsel appearing on behalf of the petitioner made a submission that the petitioner-Club has not sublet the portion of the land in favour of the Bullmore School. In fact, the petitioner-Club had allowed the children to use the portion of the land as 'Play Area' and towards maintenance, they have collected a sum of Rs.1,000/- per month from the Bullmore School.

8. The petitioner-Club is not a profit making Club and it is being used for up keep of the Tennis Court and Badminton Court. The petitioner-Club has produced the balance sheets before the Competent Authorities to establish that the Club is not making any profit.

9. The Government failed to consider the fact that the superstructure constructed as a small shed for storing the sports materials and to protect the same. The Government primarily terminated the assignment mainly on the ground that the petitioner-Club had collected a sum of Rs.1,06,825/- over a period of three years. The said reason is



incorrect. The assignment was initially granted in the year 1937 and all along the petitioner-Club is utilising the Government land for conducting Tennis activities and therefore, the impugned order is liable to be set aside.

10. The learned Senior Counsel appearing on behalf of the petitioner-Club reiterated that the petitioner-Club has never sublet the portion of the land to Bullmore School. They have permitted the children to use the portion of the land as 'Play Area' only by collecting a sum of Rs.1,000/- per month towards maintenance.

REPLY BY THE RESPONDENTS:

11. The learned Additional Advocate General appearing on behalf of the respondents strenuously objected the contentions raised on behalf of the petitioner-Club. The Collector of Nilgiris in proceedings dated 19.11.1937 temporary assignment of an extent of 1.50 Acres of Government land to the petitioner-Club for the purpose of opening Tennis and Badminton Courts. The assignment of Government land was made on conditions that the word 'Temporary Assignment' was mentioned in the Grant. The said ground was purely lease basis on an annual payment of



Rs.10/- only exclusive of all cesses for the time being for opening Tennis and Badminton Courts as per the conditions stipulated in the Grant. The land which was temporarily assigned to the petitioner-Mount Pleasant Social Club has not been utilised for the purpose for which it was originally assigned and the Club has utilised the land as follows:-

The land which was temporarily assigned to the Mount Pleasant Social Club has not been utilised for the purpose it was originally assigned and that the Club has utilised the land as follows:-

1) Social Club, Vacant land and Pines and Eucalyptus trees	0.15.54 Hect.
2) Footpath	0.01.58 Hect.
3) Social Club buildings and Garden	0.07.10 Hect.
4) Social Club Tennis Court	0.13.90 Hect.
5) Playground being used by Bullmore School	0.12.00 Hect.
6) By encroachment of outsiders	0.01.34 Hect.
Total	0.51.46 Hect.

12. Pertinently the petitioner-Club had not remitted the annual fee of Rs.10/- in time and the fee was not paid for several decades. Club



Secretary had sent a cheque dated 19.11.2003 for Rs.660/- being the fee for 66 years. However, the petitioner-Club have collected a sum of Rs.1,06,825/- from February 1972 to 09.06.1999 from Bullmore School by letting out a portion of the land on rental basis.

13. The building has been constructed in the Government land by the Club. Thus the Club has violated the conditions 1 and 2 of the Original Grant. Instead of paying the dues to the Government, the Club earned a huge amount by subletting Government properties to a Private School and allowed the outsiders to encroach the land. The petitioner-Club had failed to protect the Government lands. Thus show cause notice had been issued to the Secretary of the petitioner-Club on 29.10.2003 as to why the temporary permit granted should not be revoked and the land along with the building be resumed to Government for violation of conditions of the Grant.

14. Notice was served on the petitioner-Club on 13.11.2003. The petitioner-Club submitted an explanation denying the charges levelled against them. A cheque dated 19.11.2003 for a sum of Rs.660/- towards



annual fee from the year 1937 to 2003 was sent by the petitioner-Club and made a request to drop further action and allow them to continue their sports activities.

15. The explanation submitted by the petitioner-Club was found not acceptable on merits and the District Collector issued orders on 05.12.2003 for cancellation of temporary permit granted to the Club and hand over the land to the Government within seven days. The petitioner-Club failed to comply with the District Collector's order and the Club filed an appeal before the Commissioner of Land Administration.

16. The Commissioner of Land Administration, Chennai had examined the appeal petition and conducted an enquiry. Since the order of the District Collector was confirmed by the Commissioner of Land Administration, the petitioner-Club filed WP No.2537 of 2006 before the High Court of Madras and final order was passed by this Court on 27.08.2010, granting permit to the petitioner-Club to approach the Government and the representation, if any, submitted by the petitioner-Club was directed to be considered, within a period of three months.



17. The representation submitted by the petitioner-Club to the Government was considered and the Government also rejected the said request of the petitioner and ordered for resumption of the Government land. Thus the petitioner-Club has filed the present writ petition.

18. The learned Additional Advocate General appearing on behalf of the respondents mainly contended that the petitioner-Club had violated the conditions stipulated in the Grant. The petitioner-Club has further sublet the portion of the land to the Bullmore School by entering into an agreement and collected huge amount towards rent. They had violated the conditions of Grant by constructing buildings and by not protecting the Government lands. All material factors were considered by the District Collector, Commissioner of Land Administration and the Government. Thus the present writ petition is to be rejected.

LEGAL PRINCIPLES:

Concept of Public interest in the matter of public policy:

19. The Hon'ble Apex Court in the case of **Kasturi Lal**



Lakshmi Reddy vs State Of Jammu And Kashmir & another on 9th May, 1980 [1980 SCR (3) 1338], made a detailed discussion on Government contracts, Limitations on the Government to grant contracts, Test of reasonableness, **concept of public interest and Articles 14 and 19 of the Constitution and held :**

“While others have been given legal protection not only by forging procedural safeguards but also by confining, structuring and checking Government discretion in the matter of grant of such largess. The discretion of the government has been held to be not unlimited in that the Government cannot give largess in its arbitrary discretion or as its sweet will or on such terms as it chooses in its absolute discretion.

(i) There are two limitations imposed by law which structure and control the discretion of the Government in this behalf. The first is in regard to the terms on which largess may be granted and the other. In regard to the persons who may be recipients of such largess.

(ii) So far as the first limitation is concerned, it flows directly from the thesis that, unlike a private individual, the State cannot act as



WEB COPY

WP No.25620 of 2



it pleases in the matter of giving largess. Though ordinarily a private individual would be guided by economic considerations of self-gain in any action taken by him, it is always open to him under the law to act contrary to his self-interest or to oblige another in entering into a contract or dealing with his property. But the Government is not free to act as it likes in granting largess such as awarding a contract or selling or leasing out its property. Whatever be its activity, the Government is still the Government and is, subject to restraints inherent in its position in a democratic society. The constitutional power conferred on the Government cannot be exercised by it arbitrarily or capriciously or in an unprincipled manner; it has to be exercised for the public good. Every activity of the Government has a public element in it and it must therefore, be informed with reason and guided by public interest. Every action taken by the Government must be in public interest; the Government cannot act arbitrarily and without reason and if it does, its action would be liable to be invalidated. **If the Government awards a contract or leases out or otherwise deals with its property or grants any**



other largess, it would be liable to be tested for its validity on the touch-stone of reasonableness and public interest and if it fails to satisfy either test, it would be unconstitutional and invalid.”

Concept of public interest:

20. “Concept of public interest must as far as possible receive its orientation from the Directive Principles.

What according to the founding fathers constitutes the plainest requirement of public interest is set out in the Directive Principles and they embody par excellence the constitutional concept of public interest.

If, therefore, any governmental action is calculated to implement or give effect to a Directive Principle, it would ordinarily, subject to any other overriding considerations, be informed with public interest.

Where any governmental action fails to satisfy the test of reasonableness and public interest discussed above and is found to be



wanting in the quality of reasonableness or lacking in the element of public interest, it would be liable to be struck down as invalid.

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It must follow as a necessary corollary from this proposition that the Government cannot act in a manner which would benefit a private party at the cost of the State; such an action would be both unreasonable and contrary to public interest.

The Government, therefore, cannot, for example, give a contract or sell or lease out its property for a consideration less than the highest that can be obtained for it, unless of course there are other considerations which render it reasonable and in public interest to do so. Such considerations may be that some Directive Principle is sought to be advanced or implemented or that the contract or the property is given not with a view to earning revenue but for the purpose of carrying out a welfare scheme for the benefit of a particular group or section of people deserving it or that the person who has offered a higher consideration is not otherwise fit to be given the contract or the property.



Illustratively, there may be an infinite variety of considerations which may have to be taken into account by the Government in formulating its policies and it is on a total evaluation of various considerations which have weighed with the Government in taking a particular action, that **the Court would have to decide whether the action of the Government is reasonable and in public interest.**

But one basic principle which must guide the Court in arriving at its determination on this question is that there is always a presumption that the Governmental action is reasonable and in public interest and it is for the party challenging its validity to show that it is wanting in reasonableness or is not informed with public interest. This burden is a heavy one and it has to be discharged to the satisfaction of the Court by proper and adequate material.

The Court cannot lightly assume that the action taken by the Government is unreasonable or without public interest because, as we said above, there are a large number of policy considerations which must necessarily weigh with the Government in taking action **and therefore the Court would not strike**



down governmental action as invalid on this ground, unless it is clearly satisfied that the action is unreasonable or not in public interest. But where it is so satisfied, it would be the plainest duty of the Court under the Constitution to invalidate the governmental action. This is one of the most important functions of the Court and also one of the most essential for preservation of the rule of law.”

The second limitation on the discretion of the Government in grant of largess is in regard to the persons to whom such largess may be granted.

21. It is now well settled as a result of the decision of this Court in the case of **Ramana D. Shetty vs. International Airport Authority of India & Ors.** (supra) that the Government is not free like an ordinary individual, in selecting the recipients for its largess and it cannot choose to deal with any person it pleases in its absolute and unfettered discretion. The law is now well established that the Government need not deal with anyone. but if it does so, it must do so fairly without discrimination and without unfair procedure. Where the Government is



dealing with the public, whether by way of giving jobs or entering into contracts or granting other forms of largess, the Government cannot act arbitrarily at its, sweet will and, like a private individual, deal with any person it pleases, but its action must be in conformity with some standard or norm which is not arbitrary, irrational or irrelevant. The governmental action must not be arbitrary or capricious, but must be based on some principle which meets the test of reason and relevance. This rule was enunciated by the Court as a rule of administrative law and it was also validated by the Court as an emanation flowing directly from the doctrine of equality embodied in Article 14.

22. The Hon'ble Supreme Court in the case of **Ram and Shyam Company vs State of Haryana and Others**, dealt with the aspect of disposal of the public property and held that :

“...disposal of public property partakes the character of a trust in that in its disposal there should be nothing hanky panky and that it must be done at the best price so that larger revenue coming into the coffers of the State administration would serve public purpose viz. the welfare State



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*may be able to expand its beneficent activities by the availability of larger funds. **This is subject to one important limitation** that socialist property may be disposed at a price lower than the market price or even for a token price to achieve some defined constitutionally recognised public purpose, one such being to achieve the goals set out in Part IV of the Constitution. **But where disposal is for augmentation of revenue and nothing else, the State is under an obligation to secure the best market price available in a market economy.***

An owner of private property need not auction it nor is he bound to dispose it of at a current market price. Factors such as personal attachment, or affinity kinship, empathy, religious sentiment or limiting the choice to whom he may be willing to sell, may permit him to sell the property at a song and without demur.

A welfare State as the owner of the public property has no such freedom while disposing of the public property. A welfare State exists for the largest good of the largest number more so when it proclaims to be a socialist State dedicated to eradication of poverty. All its attempt must be to.



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obtain the best available price while disposing of its property because the greater the revenue, the welfare activities will get a fillip and shot in the arm. Financial constraint may weaken the tempo of activities. Such an approach serves the larger public purpose of expanding welfare activities primarily for which the Constitution envisages.

23. In the case of **Ramana Dayaram Shetty vs. The International Airport Authority of India and Others** in which **Bhagwati, J.** speaking for the Court observed:

"It must, therefore, be taken to be the law that where the Government is dealing with the public, whether by way of giving jobs or entering into contracts or issuing quotas or licences or granting other forms of largesse, the Government cannot act arbitrarily at its sweet will and, like a private individual, deal with any person it pleases, but its action must be in conformity with standard or norms which is not arbitrary, irrational or irrelevant. The power or discretion of the Government in the matter of grant of largesse including award to jobs, contracts, quotas, licences etc., must be confined



WEB COPY

WP No.25620 of 2



*and structured by rational, relevant and non-discriminatory standard or norm and if the Government departs from such standard or norm in any particular case or cases, the action of the Government would be liable to be struck down, unless it can be shown by the Government that the departure was not arbitrary, but was based on some valid principle which in itself was not irrational, unreasonable or discriminatory. At another place it was observed that the Government must act in public interest, it cannot act arbitrarily or without reason and if it does so, its action would be liable to be invalidated. It was further observed that the object of holding the auction is generally to raise the highest revenue. The Government is entitled to reject the highest bid if it thought that the price offered was inadequate. But after rejecting the offer, it is obligatory upon the Government to act fairly and at any rate it cannot act arbitrarily. Following this line of thought, in **Kasturi Lal Lakshmi Reddy vs. State of Jammu & Kashmir and Another.** (page 10, 11).”*

24. In the case of **Netai Bag and others vs State of West**



Bengal and others, the Hon'ble Apex Court has held :

“It has been consistently held by this Court that in a democracy governed by the rule of law, the Executive Government or any of its officers cannot be allowed to possess arbitrary powers over the interests of the individual. Every action of the Executive Government must be in conformity with reason and should be free from arbitrariness. The Government cannot be equated with an individual in the matter of selection of the recipient for its largesse.(page 7)

Though the State cannot escape its liability to show its actions to be fair, reasonable and in accordance with law, yet wherever challenge is thrown to any of such action initial burden of showing the prima facie existence of violation of the mandate of the Constitution lies upon the person approaching the Court. In State of M.P. & Ors. vs. Nandlal Jaiswal & Ors. [1986 (4) SCC 566] it was held that the policy decision can be interfered with by the court only if such decision is shown to be patently arbitrary, discriminatory or malafide.(page 8).”

25. In the case of **Sachidanand Pandey and Another vs. State of West Bengal and Others [1987 (2) SCC 295]**, it was held that as regards the question of propriety of private negotiation with an individual or



Corporation, it should be borne in mind that **State owned or public owned property is not to be dealt with at the absolute discretion of the executive. Certain precepts and principles have to be observed, public interest being the paramount consideration.**

26. In the case of **Ramana Dayaram Shetty's case (supra)**, it **was held**: "It is imperative in a democracy governed by the rule of law that governmental action must be kept within the limits of law and if there is any transgression, the Court must be ready to condemn it. It is a matter of historical experience that there is a tendency in every government to assume more and more powers and since it is not an uncommon phenomenon in some countries that the legislative check is getting diluted, it is left to the Court as the only other reviewing authority under the Constitution to be increasingly vigilant to ensure observance with the rule of law and in this task, the Court must not flinch or falter. It may be pointed out that this ground of invalidity, namely, that the governmental action is unreasonable or lacking in the quality of public interest, is different from that of mala fides though it may, in a given case, furnish evidence of mala fides.



27. In the case of **M.P. Oil Extraction and Another vs. State of Madhya Pradesh and Others** [1997 (7) SCC 592], it was held that principle of reasonableness and non-arbitrariness in governmental action is the core of our entire Constitutional scheme and structure. On the facts of that case, the action of the State Government in granting a contract by way of negotiation was held not arbitrary or irrational.

28. In the case of **M/s.Style (dress land) vs. Union Territory Chandigarh and Another**, the Hon'ble Supreme Court of India reiterated the observations of Mathew, J., in **Punnan Thomas vs. State of Kerala** [AIR 1969 Ker 81 (FB)] that:

"The Government, is not and should not be as free as an individual in selecting the recipients for its largess. Whatever its activity, the Government is still the Government and will be subject to restraints, inherent in its position in a democratic society. A democratic Government cannot lay down arbitrary and capricious standards for the choice of persons with whom alone it will deal" **The same point was made by this Court in Erusian Equipment and Chemicals Ltd. Vs. State of West bengal (1975) 2 SCR 674; (AIR 1975 SC 266)** where the question was whether black-listing of a person without



giving him an opportunity to be heard was bad? It was argued for the Government that no person has a right to enter into contractual relationship with the Government and the Government, like any other private individual, has the absolute right to enter into contract with any one it pleases. **But the court, speaking through the learned Chief Justice, responded that the Government is not like a private individual who can pick and choose the person with whom it will deal, but the Government is still a Government when it enters into contract or when it is administering largess and it cannot, without adequate reason, exclude any person from dealing with it or take away largess arbitrarily. The learned Chief Justice said that when the Government is trading with the public, "the democratic form of Government demands equality and absence of arbitrariness....The activities of the Government have a public element and, therefore, there should be fairness and equality. The State need not enter into any contract with anyone, but if it does so, it must do so fairly without discrimination and without unfair procedure." This proposition would hold good in all cases of dealing by the Government with the public, where the interest sought to be protected is a privilege. It must, therefore, be taken to be the law that where the Government is dealing with the public, whether by way of giving jobs or entering into**



contracts or issuing quotas or licences or granting other forms of largess, the Government cannot act arbitrarily at its sweet will and, like a private individual, deal with any person it pleases, but its action must be in conformity with standard or norm which is not arbitrary, irrational or irrelevant. The power or discretion of the Government in the matter of grant of largess including award of jobs, contracts quotas, licences etc., must be confined and structured by rational, relevant and non- discriminatory standard or norm and if the government departs from such standard or norm in any particular case or cases, the action of the Government would be liable to be struck down, unless it can be shown by the Government that the departure was not arbitrary, but was based on some valid principle which in itself was not irrational, unreasonable or discriminatory."

While exercising the powers of judicial review the Court can look into the reasons given by the Government in support of its action but cannot substitute its own reasons. **The Court can strike down an executive order, if it finds the reasons assigned were irrelevant and extraneous.**

29. The concept of "Public Policy" and "Public Interest" as



defined is that, the practical implications concerning strategies for protecting human rights and promoting democracy and the rule of law.

“Public Interest” means “People” thereafter, “which is best for the society as a whole”. General welfare of the public that warrants, recognition and protection and something in which the public as a whole has a stake.

30. **The true measure of whether someone is acting in the public interest lies in the confidence of those affected, not those making the pronouncements.** The way a public action is determined, and seen to be determined, and the public interest appropriateness of the solution, will influence the acceptance of the measure. Justification in influences, the amount of trust endangered in the relevant public. The purpose of seeking to invoke the public interest is also to be looked into. Whether the matter is really intended to be for the benefit of the society and public interest theory is a part of welfare economics. It is the outcome attained, when the Government discharged its obligations for long run survival and well being of the society. Serving the public is the Fundamental Mission of the Government. **Unfortunately, individualism dominates today's public life at the expense of common benefit. A policy is purposive or goal oriented**



action. The policy consists of courses of action rather than mere decisions. The public confidence rest on the fairness and impartiality.

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ANALYSIS:

31. Admittedly, temporary assignment of 1.50 Acres of land in Coonoor was granted to the petitioner-Club on the following conditions:-

1) The Assignee shall pay an annual fee of Rs.10/- (Rupees Ten only), exclusively all cesses to the Tahsildar on the 10th January of every year. The fee for 1937 shall be payable at the time of executing the agreement referred to in condition No.5 below.

2) No building should be constructed on the land assigned temporarily.

3) That in case the permit is revoked, the Assignee shall not be entitled to any compensation either for the land or for any improvements effected thereon.

4) The Assignee shall bear all charges for evicting him from the land in case he fails to vacate the land whenever required to do so by the Collector.

5) The Assignee shall execute an agreement on a twelve anna



non judicial stamp paper embodying the above conditions and lodge it with the Tahsildar, Coonoor.

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32. With reference to the above conditions, the Revenue Authorities found that the petitioner-Club has not utilised the assigned land for the purpose for which it was originally assigned. The Revenue Authorities have ascertained the violations and the serious violation is that the petitioner-Club had sublet the portion of the Government land by entering into an agreement with Bullmore School and collected huge amount. Thus the petitioner-Club allowed the outsiders to encroach upon the Government lands and failed to protect the lands for the purpose for which it was assigned.

33. In respect of the violations, actions were initiated in the year 2003 itself. The proceedings of the District Collector dated 05.12.2003 deals with the entire facts and circumstances leading to an order of resumption of Government land on the ground of violations of conditions of Grant. An order of eviction was passed.



34. The petitioner-Club approached the Commissioner of Land Administration by filing an appeal. The Commissioner of Land Administration in proceedings dated 21.10.2005 elaborately considered the entire facts and circumstances, including the assignment conditions and the violations committed by the petitioner-Club. The order of the Commissioner of Land Administration states that the Club has not utilised the land for the purpose for which it was assigned. The petitioner-Club had sublet a portion of the land of an extent of 0.07.90 Hectares of assigned land intended for Badminton Court was sublet to Bullmore School and collected a sum of Rs.1,06,825/- from February 1972 to 09.06.1999 from the said School by letting out a portion of the land on rental basis.

35. Though the petitioner-Club has produced the balance sheets, the learned Additional Advocate General made a submission that the Authorities have ascertained that Dr.K.N.Raman in his capacity as Secretary of the petitioner-Club had entered into an agreement with the Headmistress of Bullmore school for enhancement of rent for the Club building i.e., Rs.650/- for the building and Rs.50//- for the ground with effect from 01.02.1992 and that the premises are in full control of the tenant, without



any further enhancement of rent for the next five years i.e., upto 31.01.1997.

The Bullmore School-Correspondent had given a statement showing the details of rent paid with cheque numbers and dates. Therefore, the Authorities held that the violations are proved against the petitioner-Club and the Club had sublet the building and the ground to the near by School and had collected a sum of Rs.1,06,825/- from February 1972 to 09.06.1999 from the Bullmore School.

36. The petitioner-Club themselves admitted that some neighbouring house owners had put up window shades which encroach a few inches into the Badminton Court of the petitioner-Club. The petitioner-Club had failed to protect the Government properties and allowed the outsiders to encroach upon the land. Even the meagre annual fee of Rs.10/- was not paid by the petitioner-Club from 1937 to 2003. Only on 19.11.2003, the petitioner-Club paid a sum of Rs.660/- towards annual fee from the year 1937 to 2003 and made a request to drop further proceedings and allow them to continue their Club activities.

37. All these factors were considered by the Commissioner of



Land Administration and the Revenue Authorities have found that the petitioner-Club has deliberately mis-utilised the Government land and not used the same for the purpose for which it was originally granted.

38. Pursuant to the order passed by this Court in WP No.2537 of 2006 dated 27.08.2010, again the petitioner preferred an appeal before the Government. The petitioner had already exhausted the appeal remedy before the Commissioner of Land Administration based on the directions issued by this Court in the writ petition, a representation was submitted. Accordingly, the Government considered the entire issues based on the facts and considering the records made available. The learned Senior Counsel appearing on behalf of the petitioner states that the grounds stated by the Revenue Authorities are only repeated by the Government in the same manner and therefore, the Government Order is to be set aside.

39. Reconsidering the ground considered by the Subordinate Authorities by the Government, cannot be said to be improper. If at all the grounds considered by the Original Authority and the Appellate Authority, are found to be in consonance with the facts and documents, there is no



impediment for the Government to reiterate the said grounds for the purpose of considering the representation submitted by the writ petitioner. Thus by reconsidering the ground in the same manner by the Government, cannot be a ground to set aside the order.

40. The merits of the issues considered based on the facts and documents alone are to be taken into consideration. Both the District Collector and the Commissioner of Land Administration considered the entire facts and circumstances, based on the documents and evidences available on record. The Government also considered the proceedings of the Original Authority and the Appellate Authority along with the documents and thereafter reiterated the decision taken by the Original Authority and the Appellate Authority.

41. The Government has stated that they have carefully considered and decided to reject the request of the petitioner-Club. The Government also reiterates that the Club has not utilised the land for the purpose for which it was originally assigned and it has sublet a portion of the land to Bullmore School for using the same as 'Play Ground' and



collected a sum of Rs.1,06,825/- from the School. The petitioner-Club has constructed a superstructure building for the purpose of conducting Tennis and Badminton Courts activities, without getting any prior permission from the District Collector, Nilgiris.

42. Pertinently, the petitioner-Club had not even paid the annual fee of Rs.10/- fixed at the time of assignment. They have committed default in payment of annual fee. The annual fee for the period from 1937 to 2003 was paid only in the year 2003. A sum of Rs.660/- towards rent was paid for 66 years in the year 2003 only.

43. The Authorities have considered the issues based on the documents and evidences. The Government also considered the agreement entered into between Mr.K.N.Raman, Secretary of the petitioner-Club and the Headmistress of Bullmore School and the collection of rent was admitted by the Headmistress of the Bullmore school. Thus the charges against the petitioner-Club are held proved beyond any pale of doubts and more-so, the petitioner-Club has not even paid the annual rent of Rs.10/- for more than 66 years.



44. The petitioner-Club is now enjoying the valuable property in Coonoor and the market value of the said property is very high and such lands are to be utilised by the Government for the benefit of common men. Even if the sports activities are to be continued in the said land belonging to the Government, the Government can do so, for the benefit of the common men. Regarding the Government Largesses, the same cannot be granted for the benefit to the private organisation or individuals.

45. In the present case, the District Collector, Commissioner of Land Administration and the Government have considered the issues based on the documents and evidences and found that the petitioner-Club has violated more than one conditions stipulated in the Original Grant.

46. Thus this Court has to arrive an inevitable conclusion that the petitioner-Club is not entitled to continue in the Government land, which is highly valuable as of now. Since the market value of the land is very high in Coonoor Town, the said Government land is to be utilised for the welfare and benefit of the public at large by the Government. The



respondents are directed to resume the lands immediately.

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47. In this view of the matter, the impugned order passed by the fourth respondent in G.O.Ms.No.262, Revenue Department, dated 15.07.2015 stands confirmed and consequently, the present writ petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are also dismissed.

04-09-2023

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn



To

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- 1.The Special Commissioner and Commissioner
of Land Administration,
Chepauk,
Chennai-5.
- 2.The District Collector,
Nilgiris District,
Nilgiris.
- 3.The Tahsildar,
Coonoor,
Nilgiris District,
Nilgiris.
- 4.Secretary to the Government,
Revenue Department,
Fort St. George,
Chennai-600 009.



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WP No.25620 of 2



S.M.SUBRAMANIAM, J.

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Pre-Delivery Order in
WP 25620 of 2015

04-09-2023