



W.P.No.19478 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2023
CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU
AND
THE HONOURABLE Mrs.JUSTICE N.MALA

W.P.No.19478 of 2019 and
WMP.No.23384 of 2019

The President
S.Kanniappan
Manavalakalai Mandra Arakattalai
No.21, Kammalar Street,
Thirukazhukundram,
Kancheepuram District.

.... Petitioner

vs

1. The District Collector,
Kancheepuram District,
Kancheepuram.

2.The Executive Officer,
Thirukazhukundram Town Panchayat,
Thirukazhukundram,
Kancheepuram District.

3.G.Saroja

.... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the 2nd respondent in Na. Ka. No. 235/ 2016/ A2 dated 7.2.2019 and quash the same.



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For Petitioner : Mr.T.Sivagnanasambandan
For Respondents : Mrs.R.L.Karthika
Government Advocate for R1
Mr.L.Naveenkumar
for Mr.Abishekmurthy for R2
Mr.A.Venkatesan for R3

ORDER

(Order of the Court was made by J.Nisha Banu,J.)

This Writ Petition has been filed to call for the records of the 2nd respondent dated 7.2.2019 and quash the same.

2. The case of the petitioner Association is that they provide yoga and Meditation training to the people free of cost and therefore, they applied to the Thriukazhukundram Town Panchayat for grant of land and the above said Panchayat also passed resolution to grant land to the tune of 5 cents for a lease period of 99 years for a rent of Rs.500/- per year and they also fulfilled all legal formalities. While such being the case, the 3rd respondent has filed a writ petition in W.P.No.274/2017 for issuance of Mandamus to direct the respondents 1 and 2 to take action against the petitioner Institution alleging illegal encroachment by way of construction and this Court had disposed the writ petition and directed to consider the representation of the 3rd respondent



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in accordance with law. Thereafter, the petitioner Association received order from the 2nd respondent to remove the construction work and the same was challenged in W.P.No.17316/2017 and this Court allowed the writ petition and directed the respondents therein to issue a fresh notice and in compliance of the said order, the 2nd respondent passed the impugned order after issuing notice dated 07.02.2019, without applying his mind and without considering various representations of the petitioner Association. Aggrieved by the impugned order, the present writ petition is filed.

3. Heard the learned counsel for the petitioner, the learned Government Advocate appearing for the 1st respondent and the learned Standing Counsel appearing for the 2nd respondents and the learned counsel for the 3rd respondent.

4. It is brought to the knowledge of this Court by the learned Standing counsel appearing for the 2nd respondent that as per the DTCP approval plan, the lands in question i.e., S.F.Nos.422/2 and 454 measuring 1,20,873 sq.ft had been earmarked as public parks / open space reserve areas and further the Thirukazhukundram Town Panchayat had passed a Resolution dated



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19.07.2016, granting lease of the land in S.F.No.454/12, measuring 40 feet X 55 feet, out of the total extent of 154 cents, for 99 years at annual rate of Rs.500/- per annum with electricity service connection in the name of the Executive Officer of Thirukazhukukundram Town Panchayat, to the petitioner, based on his application for grant of land, however, no Lease Deed had been entered into, between the 2nd respondent and the petitioner and therefore, the possession of the land has not been handed over to the petitioner. While so, without obtaining any planning permission and building approval from the 2nd respondent, the petitioner had commenced construction of the building in the impugned site and the same has been objected by the residents of Tiruppur Kumaran Nagar. Accordingly, Stop Work Notice was issued. Furthermore, the 3rd respondent as well the petitioner had approached this Court in W.P.Nos.274/2017 and 17316/2017 and this Court had directed the respondents to take action in accordance with law by issuing notice. In compliance of the order of this Court, the 2nd respondent after detailed enquiry has passed the impugned order, requested the petitioner to vacate the building and handover the land. Since the petitioner did not vacate the building, the same has been locked by the 2nd respondent. Further it is submitted that the petitioner is not entitled to any relief as claimed since the land is earmarked for



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public park / children play area and hence prays for dismissal of this petition.

5. This Court after carefully considering the facts and rival submissions, is of the view that though the petitioner Association claim lands in question to provide yoga and Meditation training but for the welfare of the people at free of costs, there is no provision in any Statute or any Government Order so as to grant any lease of a public space or public park or open space reserve area to any person. Therefore, since the land is earmarked for public park or open space reserve area, the same has to be utilised for the said purpose alone, it cannot be deviated. There is no error apparent on the face of the record or infirmity in the reasons assigned in the impugned order of the 2nd respondent and hence this Court finds no merits in this Writ Petition.

6. Accordingly, the Writ Petition stands dismissed. No costs. Consequently connected miscellaneous petitions are closed.

(J.N.B., J.) (N.M., J.)
28.11.2023

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Index : Yes / No
Internet : Yes / No

J.NISHA BANU,J.



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and
N.MALA,J.

sk

To

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