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W.P.No.18421 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.18421 of 2018

Theivika Thirumaghan Pasumpon
Muthuramalinga Thevar Education,
Development Arakkattalai by its Secretary
Mr.A.R.Loganathan ... Petitioner

Vs.

1.The State of Tamil Nadu
Rep. by its Secretary to Government,
Adi Dravidar and Tribal Welfare Department
Fort St.George,
Chennai – 09.

2.The District Collector,
Chennai District,
Rajaji Salai,
Chennai – 600 001.

3.The Tahsildar,
Perambur – Purasaiwalkam Taluk,
Chennai – 600 011. ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the third respondent dated 18.06.2011 and quash the same and consequently direct the respondents to restore possession of the land comprised in Old S.No.98 Part now T.S.No.2 Part measuring 30 cents and in



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S.No.99 Part now T.S.No.3 Part measuring 40 cents situate at No.192 Thondaiyarpet High Road, Block No.43, Kodungaiyur Village, Tondaiyarpet Taluk (now Perambur Purasaiwalkam Taluk).

For Petitioner : Mr.B.K.Sreenivasan
For Respondents : Mr.M.Alagu Goutham for R1 to R3
Government Advocate

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records of the third respondent dated 18.06.2011 and to quash the same and to consequently direct the respondents to restore possession of the land comprised in Old S.No.98 Part now T.S.No.2 Part measuring 30 cents and in S.No.99 Part now T.S.No.3 Part measuring 40 cents situate at No.192 Thondaiyarpet High Road, Block No.43, Kodungaiyur Village, Tondaiyarpet Taluk (now Perambur Purasaiwalkam Taluk).

2.The case of the petitioner is that one S.N.Muniyasamipandian, T.A.Deivendran and M.Chellaiya were in possession and enjoyment of the subject property and they started the School in the name of Pasumponnar Dr.Kalaigar Balar Palli in the year 1985 and B-Memo was issued in the name of the School in the year 1987. Thereafter a Trust was formed under Trust Deed dated 19.07.1999. Thereafter,



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the name was changed from Pasumponnar Dr.Kalaigar Balar Palli Trust to Theivika Thirumaghan Pasumpon Muthuramalinga Thevar Education Development Arakkattalai in the year 2004.

3.The further case of the petitioner is that since the respondents tried to evict the School, the Trust filed suit in O.S.No.7266 of 2011 before the V Assistant City Civil Court, however the said suit was dismissed. Challenging the same, the Trust filed Appeal in A.S.No.288 of 2014 before the III Additional City Civil Court and the said appeal was also dismissed. Aggrieved by the same, the Trust filed Second Appeal in S.A.No.676 of 2016 before this Court and this Court vide order dated 18.08.2016 granted an order of status – quo and the same is still in force. Whiles, the third respondent had transferred the land to Adi Dravidar and Tribal Welfare Department. Hence, this writ petition.

4.The learned counsel appearing for the petitioner submitted that the Second Appeal filed by the Trust in S.A.No.676 of 2016 before this Court is still pending and the order of status – quo dated 18.08.2016 granted by this Court is still in force, however, contrary to that the third respondent has issued the Transfer Charge



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Certificate, which is not sustainable one.

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5.The learned Government Advocate appearing for the respondents submitted that the petitioner Trust is not running any School and is trying to grab the Government land by catena of Court cases and further submitted that already the City Civil Court in the order dated 26.02.2014 made in O.S.No.7266 of 2011 has observed that being an encroacher over the Government Poromboke land, the petitioner cannot maintain a suit for injunction against the real owner and further submitted that prior to the order of status – quo dated 18.08.2016 granted by this Court, the Transfer Charge Certificate was issued and the land was transferred to the Adi Dravidar and Tribal Welfare Department.

6.Heard the arguments advanced on either side and perused the materials available on record.

7.The facts in the present case is not in dispute. The petitioner claim that B-Memo was issued in the name of the School in the year 1987, however, B-Memo will not confer any title over the property. Apart from B-Memo, nothing has been produced before this Court to



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substantiate the title over the property. Apart from that, the Trust had filed suit in O.S.No.7266 of 2011 before the V Assistant City Civil Court and the said suit has been dismissed and the Appeal filed by the Trust in A.S.No.288 of 2014 before the III Additional City Civil Court has also been dismissed.

8.Further, prior to the order of status – quo dated 18.08.2016 granted by this Court, the Transfer Charge Certificate was issued by the third respondent and the land was transferred to the Adi Dravidar and Tribal Welfare Department. Hence the impugned order warrants no interference and the relief sought for in this writ petition cannot be granted.

9.The writ petition is accordingly dismissed. No costs. Consequently, the connected miscellaneous petition/s, if any, is/are closed.

15.03.2023

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

M.DHANDAPANI,J.

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To

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