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W.P. No. 18434 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2023

CORAM

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN

AND

THE HON'BLE MR. JUSTICE K. RAJASEKAR

W.P. No. 18434 of 2018

&

W.M.P. No. 21755 of 2018

The Chairman,
CSI St. Lukes Church
CSI Compound,
Kamarajar Nagar,
Gorimedu,
Pondicherry – 605 006.

..Petitioner

Vs.

1. The District Revenue Officer,
Vanur, Villupuram Dist.
2. The Block Development Officer,
Vanur Panchayat Union,
Villupuram District.
3. R. Pandurangan
4. Gowri
5. Rani @ Sudanthira Rani

(R3 to R5 impleaded vide order dated
01.08.2023 made in W.M.P. No.

<https://www.mhc.tn.gov.in/judis>



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34745/2018 in W.P. No. 18434/2018

by SVNJ, KRSJ)

..Respondents

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Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the records of the respondents relating to the impugned order dated 29.06.2018 in ந.க.எண்.ஆ/2202/2018 and to quash the same as illegal, arbitrary and devoid of merit.

For Petitioner :: Mr.R. Ramana

For Respondents :: Mr.J. Ravindran,
Addl. Advocate General IX
assisted by
Mr.A. Selvendran,
Special Government Pleader for
R1 & R2
Mr.Michael Amalraj for
R3 to R5

O R D E R

(Made by **S. Vaidyanathan,J.**)

This writ petition is filed for issue of a Writ of Certiorarified Mandamus to call for the records of the respondents relating to the impugned order dated 29.06.2018 in Na.Ka.No. A/2002/2018 and to quash the same as illegal, arbitrary and devoid of merit.

2. The petitioner church is actively involved in philanthropic

activities. The petitioner church was initially started in a small plot of land



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and thereafter, during the years, the adjacent plots were also purchased under nine separate sale deeds for valid sale consideration from various purchasers. The purchase of lands spread over a period from the year 1967 to 2000 under different sale deeds. The church is in absolute possession and occupation of the lands covered under various sale deeds. The purchase of various plots in Plot Nos. 1,2,3,4 5, 7, 8, 16, 17, 25, 26, 27, 28, 29 and 30, the present compound was constructed as early as 1997 covering all the plots belonging to the church and further extended after the purchase during the year 2000. The above plots as per the documents form part of the larger extent of land comprised in Old Punja Survey Nos. 218/2, 218/4 and 218/5 of Pattanur Village, Tindivanam Taluk and the present Re-Survey No. 242/2 and 243/37. According to the petitioner, there are no roads leading beyond the land belonging to the church and TB hospital. The petitioner church is in possession of the plots and enjoying the land as a single block. During the year 2004, the church had approached the authorities for building plan approval to construct a permanent superstructure for the church. The building plan was submitted to the authorities and the same was scrutinized and approval was issued by the authorities to put up construction of the new church in the land. Even the approved plan would reveal that the church was completely fenced on all sides and a brick compound wall was in



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existence. While this being so, the 2nd respondent issued a notice in Form -7 dated 14.05.2018 under the Tamil Nadu Land Encroachment Act, 1905, alleging that the church had occupied public roads in Survey No. 218/2, 218/4 and 218/5 of Pattanur Village and demanded for an explanation from the church. Immediately on receipt of the notice from the 2nd respondent, the church had submitted its explanation by letter dated 26.05.2018 stating that they had not encroached upon any piece of land belonging to the Government. However, according to the petitioner, without considering the explanation and without giving an opportunity of personal hearing, the impugned order came to be passed. Hence, the present writ petition.

3. Heard both parties.

4. Ms. Parameshwari, District Revenue Officer, Villupuram has appeared before this Court virtually in order to assist the Court in the matter pursuant to the orders dated 01.08.2023.

5. When the matter came up on 17.08.2023, this Court had passed the following order:

Today, when the matter was taken up for hearing, it was submitted by the learned counsel for the petitioner that the survey number mentioned in the impugned notice, i.e., Old Survey No.218, has not at all been



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encroached by the petitioner.

2 This has been refuted by Mr. A. Selvendran, learned Special Government Pleader, stating that in the said survey number, compound wall has been constructed and that there is encroachment. The learned Special Government Pleader submitted before this Court the joint sketch (கூட்டு வரைபடம்), which is scanned below, for ready reference, and also a copy of the “A” register.



3 On the basis of the joint sketch, he submitted that the petitioner purchased the entire marked area, including the portion that is marked as “A” and in the layout which was formed even before the purchase was made by the petitioner, the portion mentioned as “A” was identified as “road” and while constructing the church and other buildings, roads have been encroached by the petitioner, which, for sake of ease of reference, are marked as “A”. He further submitted that as per the “A” register, the present survey number of the area in question is



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243, and earlier, it was S.No.218.

4 *Be it noted, an encroacher could not have purchased the road portion and even assuming that such a sale deed exists, that is invalid in the eye of law as nobody is empowered to sell the road to defeat the purpose of the layout nor can anyone purchase it and even if anyone purchases the road portion, such a purchase is void ab initio as it belongs to the Government.*

5 *Though it was represented that some other plot was identified to be given as road and the impleaded respondents had also agreed for the same, we expect the Government to ensure that the roads mentioned in the layout are maintained as such as they are public properties, which cannot be altered.*

6 *It is represented by the impleaded respondents that negotiations are going on for an amicable settlement.*

7 *Be it noted, unless the layout is re-presented and modified in accordance with law, the existing roads or public places cannot be grabbed by anyone under any type of deed.*

8 *Mr. B. Natarajan, Block Development Officer, Vaanur, is present and his presence is expected for the next date of hearing too, to assist this Court.*

At the request of the parties, post on 01.09.2023."

6. From a perusal of the materials on records, it is seen that firstly, the layout produced before this Court is an unapproved layout. Even assuming for the sake of convenience, there is an approved layout, Survey Nos.243/29 and 243/15 are "Nilavial Vandipathai" i.e, cart-track. By no stretch of imagination, cart-track can be encroached upon. It is open to the



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parties to get the layout approved. Even if the layout is approved, the cart-track in the aforesaid two survey numbers cannot be encroached. Hence, we are of the view that the authorities must ensure that the cart-tracks are restored and it is open to the parties concerned to either seek approval of the existing layout or apply for a fresh layout. We make it very clear that the cart-tracks in Survey Nos. 243/29 & 243/15 cannot be encroached and hence, the official respondents are expected to remove the encroachments in the cart-tracks.

7. In view of the fact that there are cart-tracks in the aforesaid survey numbers, the impugned order is sustained and the writ petition is dismissed. No costs.

8. It is represented that talks are going on between the villagers and the writ petitioner. We are not preventing any settlement by way of negotiations between the parties. However, the cart-tracks cannot be settled between the parties as it belongs to the public and the Government.

(S.V.N.J.) (K.R.S.J.)

18.10.2023



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To

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Vanur, Villupuram Dist.
2. The Block Development Officer,
Vanur Panchayat Union,
Villupuram District.

S. VAIDYANATHAN,J.

AND

K. RAJASEKAR,J.

nv

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