



WP(MD)No.15285 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **28.11.2023**

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THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

W.P.(MD)No.15285 of 2021

S.Kumaraperumal

...Petitioner

/Vs./

1.The State of Tamil Nadu,
Rep. By the Secretary to Government,
Revenue Department,
Fort St.George,
Chennai 600 009.

2.The Commissioner of Land Administration,
Ezhilagam,
Chepauk,
Chennai 600 005.

3.The District Collector,
Nagercoil,
Kanyakumari District.

...Respondents

PRAYER:- Petition - filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 3rd respondent to execute the lease deed in favour of the petitioner apropos 12.46.0 Hectares of land comprised in Survey No.1085, Azhagapapuram Village, Kanyakumari District in terms of G.O.Rt.No.293 Revenue Department dated 29/08/2001.



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For Petitioner : Mr.S.Balamurugan

For Respondents : Ms.S.Jeyapriya

Government Advocate

ORDER

This writ petition has been filed for issuance of writ of mandamus directing the third respondent to execute the lease deed in favour of the petitioner with respect to subject property in terms of G.O.Ms.No.293 Revenue Department dated 29.08.2001.

2. The case of the petitioner is that the subject property in S.No.1085 is a government poramboke land, which was classified as Uppalam and is meant for being used for manufacturing salt. An application was made by the petitioner to the Government of Tamil Nadu requesting for lease of the subject property to enable the petitioner to manufacture salt. Considering the application made by the petitioner, G.O.Ms.No.293, Revenue Department, dated 29.08.2001 was issued, whereby the State Government directed the execution of the lease deed in the name of the petitioner for a period of 20 years.

3. Since the lease deed was not executed, the petitioner filed a writ petition in W.P.No.17175 of 2022 before this Court for a direction to the District



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Collector to execute the lease deed, based on the representation made by the petitioner. This writ petition was disposed by order dated 22.03.2004 directing the respondents to pass orders on the representation made by the petitioner in terms of the aforesaid GO. In the meantime, yet another writ petition came to be filed by one T.Jayakumar in W.P.No.1082 of 2002 challenging the government order issued in favour of the petitioner. This writ petition was dismissed by the Division Bench of this Court by order dated 16.03.2006.

4. The grievance of the petitioner is that right through no lease deed was executed in favour of the petitioner and representation made by the petitioner also did not evoke any response. Left with no other option, the present writ petition has been filed before this Court.

5. The third respondent has filed counter affidavit. The relevant portions in the counter affidavit are extracted hereunder:-

“3. I respectfully submit that as against the averments made in the para 4 to 8 of the affidavit, the land was not used for making salt for the last 20 years. According to the writ petitioner, G.O. 293 Revenue Department dated 29/08/2001 was passed by the Tamil Nadu Government, granting lease in favour of the writ petitioner. Since the lease deed was not executed, he filed a writ petition in WP17175 of 2002. It was disposed by the Hon'ble



court on 22.03.2004 directing the respondents to pass orders on the writ petitioner's representation dated 22/04/2002. One Thiru.Jayakumar filed a writ petition in WP 1082 of 2002 to quash G.O. 293 Revenue Department dated 29/08/2001. The said writ petition was dismissed on 16.03.2006. It is submitted that the writ petitioner has to prove the averments made in these paras. Even if they are true, it is infructuous because the said period of 20 years has come to an end and the writ petitioner in whose name the lease was given is no more valid.

4. I respectfully submit that as against be averments made in the para 11 to 13 of the affidavit, the question of executing the lease deed does not arise as the land in R,S 1085/2 belongs to the Government and has been alienated to Anjugramam Town Panchayat and the local body is using the land for solid waste management. The land in R.S. 1085/1 classified as uppalam has an extent of 12.08.00 hectares. It is used as play ground by the locals. On the eastern side, about 1.5 acres of karuvel trees are acting as barrier against sea. There is a odai on the southern side of this land and through this odai water merges into sea. The Government has every right to make use of Government Land.”

6. Heard Mr.S.Balamurugan, learned counsel appearing for the petitioner and Ms.S.Jeyapriya, learned Government Advocate appearing for the respondents.



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7. There is no dispute with regard to the fact that the Government order was passed as early as in the year 2001 to grant lease in favour of the petitioner for a period of 20 years for manufacturing salt. It is also not in dispute that the property in question has been categorized as Uppalam. The Government order was challenged by filing a writ petition in W.P.No.1082 of 2002 and this writ petition was dismissed in the year 2006. Even thereafter, the lease deed has not been executed in favour of the petitioner, even though directions were issued by this Court in W.P.No.17175 of 2002 by order dated 22.03.2004. It is nearly 22 years, since the government order was passed.

8. The counter affidavit filed by the third respondent shows that the property in question has undergone some change. One portion of the property has been given in favour of Anjugramam town Panchayat for solid waste management. Another portion of the property is now being used by the locals as a play ground. The remaining portion of the property is said to be covered by Juliflora trees. In view of the same, the third respondent has taken a stand that the lease deed cannot be executed and the writ petition has become infructuous.



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9. This Court is not able to agree with the stand taken by the third respondent to the effect that the relief sought for by the petitioner has become infructuous. The fact remains that there was a government order passed in favour of the petitioner and there was also a direction issued by this Court to consider the representation made by the petitioner for execution of the lease deed. Therefore, till the lease deed is executed in favour of the petitioner and the period expires, there is no question of rejecting the claim made by the petitioner on the ground that the relief has become infructuous.

10. The Government order in G.O.Ms.No.293, Revenue Department, dated 29.08.2001 stands and the same has not been acted upon. Therefore, the third respondent has to either act upon the government order or yet another government order must be passed by cancelling the earlier government order. Till then, the petitioner will be entitled to claim for the execution of the lease deed in his favour. Till date, the order passed by this Court in W.P.No.17175 of 2022, dated 22.03.2004 has not been complied with.

11. In the light of the above discussion, there shall be a direction to the third respondent to deal with the representations made by the petitioner dated 04.01.2021 and 13.08.2021, in the light of the earlier order passed by this Court



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in W.P.No.17175 of 2002 dated 22.03.3004 and a decision shall be taken and informed to the petitioner within a period of six weeks from the date of receipt of a copy of this order.

12. This writ petition is disposed with the above directions. No costs.

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NCC : Yes/No
Internet :Yes/No
Index :Yes/No
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N.ANAND VENKATESH, J.

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TO:-

- 1.The Secretary to Government,
Revenue Department,
Fort St.George,
Chennai 600 009.
- 2.The Commissioner of Land Administration,
Ezhilagam,
Chepauk,
Chennai 600 005.
- 3.The District Collector,
Nagercoil,
Kanyakumari District.

Order made in
W.P.(MD)No.15285 of 2021

Dated:
28.11.2023