



W.P(MD)No.16633 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 03.08.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.16633 of 2014

The Secretary,
Jayaraj Annapakiam College for Women
Mount St.Anne, Thamaraikulam,
Periyakulam Post-625 601,
Theni District.

... Petitioner

Vs.

1.The District Collector/Chairman,
District Rural Development Agency (DRDA)
District Collectorate, Theni,
Theni District-625 531.

2.The Project Officer,
District Rural Development Agency (DRDA),
District Collectorate, Theni,
Theni District-625 531.

3.The Executive Officer,
Thamaraikulam Town Panchayat,
Thamaraikulam, Periyakulam Post,
Theni District-625 601.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceeding issued by the 3rd respondent Executive



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Officer of the Town panchayat in Na.Ka.No. 131/2014 dated 31.07.2014 and his consequential proceeding in Na.Ka.No. 131/2014 dated 30.09.2014 directing the petitioner to handover its land in Survey NO. 552/2 and the buildings thereon (Community hall and shops) to the 3rd Respondent Town Panchayat by way of gift or else to repay a sum of Rs.7,58,349/- (Rupees Seven Lakhs Eight Thousand three Hundred and Forty nine only) immediately together with interest at the rate of 11% within 10 days quash the same.

For Petitioner : Mr.Issac Mohalal
Senior Counsel
for Mr.K.Ragatheeshkumar

For Respondents : Mr.N.GA.Nataraj
Government Advocate for R1 & R2

: Mr.M.Saji Bino
Special Government Pleader for R3

ORDER

Heard the learned senior counsel appearing for the writ petitioner and the learned Government Advocate appearing for R1 & R2 and the learned Special Government Pleader appearing for R3.

2. The writ petitioner is a recognized minority educational institution. The Government of Tamil Nadu introduced what is known as “Namakku Naame Thittam” vide G.O.Ms.77, Rural



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Development Department dated 19.04.1999. The petitioner applied to the Project Officer, DRDA, Theni on 01.06.2005 proposing to construct a community hall and shops under the said scheme on the petitioner's land. The petitioner's proposal was accepted and the District Collector, Theni District in his capacity as chairperson of DRDA issued proceedings dated 08.07.2005 granting his approval. The project cost was estimated at Rs.12,00,000/-, Government's contribution being Rs.9,00,000/- and Public Contribution being Rs.3,00,000/- in the form of labour and financial contribution. Interestingly, the actual cost came down to Rs.10,58,349/-. As a result, the Government's contribution was also scaled down from Rs.9,00,000/- to Rs.7,58,349/-. The petitioner states that out of the three shops constructed, one has been given free of rent for running E-seva Centre, while the other has been given free of rent for running a fair price shop. In another shop, the self help groups are permitted to sell their produce and products. Again, no rent is collected from them. The community hall is allowed to be used for conducting meetings by various self help groups. The learned senior counsel appearing for the petitioner categorically stated that only maintenance



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charges are collected and no rent is collected. While so, audit objection came to be raised. The executive officer of the local body called upon the petitioner vide communication dated 3.107.2004 to gift the land in favour of the local body. He also insisted that the entire building must be handed over to the local body. In the event of the petitioner not willing to do so, the petitioner was called upon to pay a sum of Rs.7,58,349/- together with interest at the rate of 11% per annum. This communication is put to challenge in this writ petition.

3. This Court while admitting the writ petition on 09.10.2014 directed the respondents to maintain the *status quo* for a period of four weeks. Since the writ petition was not listed thereafter, interim order also was not extended. Taking advantage of the fact that the interim order was not in operation, the local body had made it clear to the petitioner that the impugned order will be enforced. They had also issued more than one proceeding in this regard. Left with no other option, the petitioner handed over cheque bearing No.866155429 dated 23.12.2022 for a sum of Rs.7,58,349/- to the Executive officer of the local body. They also



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undertook to withdraw the writ petition. The learned senior counsel appearing for the petitioner submitted that the letter dated 28.12.2020 was issued under coercive circumstances and this Court may not put the same against the petitioner. He submitted that the respondents have completely misconstrued the scope of “Namakku Naame Thittam Scheme”. He called upon this Court to set aside the impugned order and allow the writ petition as prayed for.

4. The third respondent have filed their counter affidavit and the learned Special Government Pleader took me through its contents. He drew my attention to the relevant clauses of the scheme and submitted that the 3rd respondent has merely sought to enforce the scheme terms as such and that therefore, the impugned communication ought not to be interfered with. He pressed for dismissal of the writ petition.

5. I carefully considered the rival contentions and went through the materials on record.



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6. The Government of Tamil Nadu introduced Namaku Naame Thittam scheme vide G.O.Ms.No.77, Rural Development dated 19.04.1999 so as to encourage developmental activities at the grass root level. The scheme contemplates financial contribution from the sponsoring authority as well as the Government. Of-course, the Government would contribute the lion's share. However, Clause D(2) of the scheme clearly states that no right shall be established over the property by the sponsoring authority. The proceedings dated 08.07.2005 issued by the District Collector / Chairperson, DRDA, Theni also contains a specific condition that a person implementing the project cannot claim right over the property. It is true that the petitioner has not been putting the property to any commercial use for all these years. However, the petitioner is very clear that the building that has been constructed implementing the scheme belongs to them. In other words, the petitioner wants to assert their right and title over the property. As rightly pointed out by the learned Special Government Pleader, this assertion of title and right by the petitioner runs counter to the terms of the scheme. To this extent, the order



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impugned in the writ petition deserves to be sustained. Probably, that is why, the petitioner chose to pay the entire amount as demanded by the local body during the pendency of the writ petition in the year 2020. In the impugned communication, the petitioner was given a choice.

A. They can convey the land in favour of the local body and also hand over the building to them, or

B. Retain the building by paying a sum of Rs.7,58,349/- with interest at the rate of 11% per annum.

7. The petitioner has paid only the principal amount demanded by the local body. The question of paying interest will not arise at all in this case. The petitioner had permitted the e-seva centre as well as the fair price shop to be run in the constructed building. This can be very well off-set against the interest component. The demand of the local body calling upon the petitioner to pay interest at the rate of 11% per annum is set aside. The land belongs to the petitioner; they had contributed Rs.2,00,000/- towards the project cost. The amount of Rs.7,00,000/- as contributed by the Government has also been paid



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by them in the year 2020 itself. The title over the property including the land and the building vest only with the petitioner and the respondents cannot have any claim over the same. Whether to permit the e-seva centre and the fair price shop to continue to run in the petition mentioned building is left to the discretion of the writ petitioner. That is a matter for negotiation between the petitioner and the respondents.

8. The Writ Petition is partly allowed. No costs.

03.08.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To

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District Collectorate, Theni,
Theni District-625 531.

2.The Project Officer,
District Rural Development Agency (DRDA),
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3.The Executive Officer,

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G.R.SWAMINATHAN, J.



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