



W.P.(MD)No.19009 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.08.2023

CORAM:

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**

and

THE HONOURABLE **MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P(MD)No.19009 of 2023

and

W.M.P(MD)No.15787 of 2023

Kayamozhi Village Panchayat,
Rep. by its President,
Rajeswaran

... Petitioner

Vs.

- 1.The District Collector,
Thoothukudi District.
- 2.The Revenue Divisional Officer,
Tiruchendur,
Thoothukudi District.
- 3.The Thasildar,
Tiruchendur Taluk,
Thoothukudi District.
- 4.The Block Development Officer,
Tiruchendur Panchayat Union,
Thoothukudi District.
- 5.The Chief Educational Officer,
Thoothukudi,
Thoothukudi District.
- 6.The Headmaster,
Si.Pa.Adhithanar Higher Secondary School,
Kayamozhi, Thiruchendur Taluk,
Thoothukudi District.



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7.Rajakumaran

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari calling for the records relating to the impugned notice in Aa1/629/2023 dated 27.07.2023 issued by the third respondent and quash the same.

For Petitioner :Mr.R.Gowrishankar

For R-1 to R-3 & R-5 :Mr.J.K.Jeyaseelan,
Government Advocate

For R-4 :Mr.T.Villavan Kothai,
Additional Government Pleader

ORDER

(Order of the Court was made by **S.S.SUNDAR, J.**)

Heard Mr.R.Gowrishankar, learned counsel for the petitioner, Mr.J.K.Jeyaseelan, learned Government Advocate for respondents 1 to 3 and 5 and Mr.T.Villavan Kothai, learned Additional Government Pleader for the fourth respondent.

2. This writ petition is filed by the President of Kayamozhi Village Panchayat, challenging the notice issued directing the petitioner to remove the encroachment in the property, which was allotted to Si.Pa.Adhithanar Higher Secondary School to use the same as a playground.



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3. The main contention raised by the petitioner is that an extent of 8.47 acres of land in Survey No.601/1B is allotted to the school to be used as a playground. Since most of the place, which is allotted to the school is not used as playground as on date and the students strength of the school is reduced to 135 over a period of time, the school does not require such an extent of land. Stating that the request of the petitioner for re-allotting the land to the petitioner is under consideration by the Revenue Officials, the petitioner contended that the impugned order is not valid.

4. This Court is unable to countenance the submissions of the learned counsel appearing for the petitioner. Earlier, one Rajakumaran filed a writ petition in W.P(MD)No.16311 of 2023 for issuance of a Writ of Mandamus directing the official respondents to remove the encroachment made by the petitioner and several other individuals encroaching upon the playground of Si.Pa.Adhithanar Higher Secondary School comprised in Survey No.604/1B to an extent of 3.45.5 hectares at Kayamozhi Village, Tiruchendur Taluk. The said writ petition was disposed of by this Court vide order dated 06.07.2023 with a specific direction to remove the encroachments forthwith. This Court has also observed that the encroachments



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made in the school cannot be permitted and that, the same should be removed within a period of two months from the date of receipt of a copy of that order. When proceedings are initiated for removal of encroachments, the petitioner has come forward with this writ petition.

5. One of the grounds raised by the petitioner is that the petitioner has filed a review application before this Court to review the order dated 06.07.2023 in W.P(MD)No.16311 of 2023. This Court does not find any merit in any of the submissions of the learned counsel for the petitioner as the facts that were taken note of by this Court while passing the order on 06.07.2023 is not in issue. Further, the petitioner admits that the land in Survey No.604/1B was allotted to the Government school only for the purpose of using the same as a playground. The local body may have advantage of using the same as there may not be any objection from the school authorities. However, the property which was originally allotted to the school for using the same as a playground cannot be put to use for any other purpose unless the allotment is cancelled. The local body cannot be permitted to encroach and put up construction and thereafter say that the encroachment should be regularized after cancelling assignment or



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allotment in favour of Education Department.

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6. Even though it is stated that the petitioner has constructed a water tank encroaching the subject land, since the water tank has already been constructed for public purpose and it is also catering the need of the public, the same may be regularized by the District Collector.

7. In view of the foregoing, this Court finds no merit in this writ petition. Accordingly, this writ petition is dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [D.B.C., J.]
04.08.2023

Index : Yes /No
NCC : Yes/No

pm



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