



W.P(MD)No.20075 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.09.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.20075 of 2014

and

M.P(MD)No.1 of 2014

C.Josephin King Virgin

... Petitioner

Vs

1.The District Collector,
Collectorate,
Nagercoil,
Kanyakumari District.

2.The Tahsildar,
Taluk Office,
Kalkulam Taluk,
Kanyakumari District.

3.D.Rozario

4.V.George

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 and 2 to forbear the respondents 3 and 4 from constructing Shopping Complex in Survey No. 570/13 near to the Bus Stop, Kandan Vilai Village, Nullivilai A



W.P(MD)No.20075 of 2014

Village, Nullivilai Panchayat, Kanyakumari District in the lands allocated to the Government within the time stipulated by this Court.

For Petitioner : Mr.S.Rajasekar

For Respondents : Mr.D.Gandhiraj
Special Government Pleader
for R.1 & R.2

Mr.D.Srinivasa Raghavan for R.4

No Appearance for R.3

ORDER

Heard the learned counsel on either side.

2. The case on hand involves 5 ½ cents of land in Survey No.570/3_in Kandavilai Village. It is seen from the revenue record that it stood in the names of five persons, namely, Joseph, Yagappan, Crishthu Rajadas, Rajendran and Yesumarian. The petitioner is the son of Crishthu Rajadas. The petitioner states that some five decades ago, the pattadhar had donated the said land in favour of the Government. But a formal deed was not drawn. The petitioner alleges that in a portion of the donated land, a private building is being put up by the fourth respondent. To restrain the fourth respondent from doing so, the present writ petition came to be filed.



W.P(MD)No.20075 of 2014

3. Unfortunately, no interim order was granted in the writ petition. As a result, the construction work proceeded and a pucca building has now been put up. It will be too late in the day to direct that the building should be demolished. The learned counsel appearing for the fourth respondent states that the fourth respondent was only a contractor who was entrusted in the construction work. According to me, he is an unnecessary party.

4. Be that as it may, the petitioner himself concedes that the land was donated by his father and uncle. His right is therefore limited to asserting that the land must be put to use only for a public purpose. It is seen from the photographs produced by the fourth respondent that the building bears in the name of “Kanthanvilai Valiya Veedu Trust Building”.

5. The learned counsel appearing for the petitioner draws my attention to the gift deed dated 17.02.2014 executed in favour of one Rozario. The said Rozario appears to have been recognised as a chief trustee. The donation deed had been executed by the legal heirs of three of the pattadhars. Therefore, on the strength of the donation deed dated 17.02.2014, no private party can assert exclusive right. The petitioner therefore has two options. Either he can move the jurisdictional civil Court for appropriate relief. In the alternative he can



W.P(MD)No.20075 of 2014

submit a representation to the first respondent. The first respondent will ensure that the proceeds from the building is put to use for public purpose. If the proceeds of the building are diverted for any private purpose, the petitioner will be entitled to seek appropriate relief.

6. With this direction to the first respondent and liberty to the writ petitioner, this writ petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

21.09.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA

To

1.The District Collector,
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Kanyakumari District.

2.The Tahsildar,
Taluk Office,
Kalkulam Taluk,
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W.P(MD)No.20075 of 2014

G.R.SWAMINATHAN, J.

MGA

W.P(MD)No.20075 of 2014
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