



WP(MD)No.12117 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 26.06.2023

PRONOUNCED ON : 22.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

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and

MP(MD)Nos.1, 2 of 2015

The United Sports Club,
Rep. by its President
P.S.A.Pallak Lebbe

: Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Secretary,
Revenue (LD6(1)) Department,
Fort St.George,
Chennai.
- 2.The Commissioner of Land Administration,
Ezhilagam, Chepauk, Chennai - 12.
- 3.The District Collector,
Thoothukudi District,
Thoothukudi.
- 4.The District Revenue Officer,
Thoothukudi, Thoothukudi District.



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5.The Tahsildar,
Tiruchendur Taluk,
Thoothukudi District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the first respondent in G.O.Ms.No.204, Revenue (LD6(1)) Department, dated 14.05.2015 and the order of the fifth respondent in Na.Ka.A1/8031/1990 dated 29.06.2015, quash the same and consequently, directing the first respondent to renew the lease in favour of the petitioner club.

For Petitioner : Mr.M.Ajmal Khan,
Senior Counsel
Assisted by
Ms.A.Jasima Yasmin

For Respondents: Mr.J.K.Jeyaeelan,
Government Advocate

ORDER

This writ petition is filed by the petitioner club challenging the order passed by the first respondent in G.O.Ms.No.204, Revenue (LD6(1))



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Department, dated 14.05.2015, directing the second respondent to take over the government lands leased in favor of the petitioner along with the collection of balance lease rent payable by the petitioner and the consequential order passed by the fifth respondent dated 29.06.2015 for taking over of the lands.

2. According to the petitioner-Society, it was formed with an object to develop the sports activities and the founders of the Society purchased a large extent of lands in Kayalpattinam for the purpose of establishing a sports club. Since the said lands were not sufficient to establish the sports club, they made a request to the Government to alienate the poromboke lands adjoining the lands purchased by the Society. The Government rejected the said request, however, granted lease in respect of the lands in Survey Nos.468/1A, 468/4 and 469/1A to an extent of 1.30 Acres situated at Thenbagam Village, Kayalpattinam by the proceedings of the fourth respondent dated 17.04.1980 for a period of 10 years from 11.06.1980 to 10.06.1990. This lease was subsequently extended vide G.O.Ms.No.1127, Revenue Department, dated 14.08.1991, for a further period of three years



upto 09.06.1993. Thereafter, the lease was not renewed further, however, proposals for renewal of lease were pending. At this juncture, the impugned orders came to be passed.

3.Learned Senior Counsel appearing for the petitioner submitted that the petitioner Society established the sports-club with an object to develop sports activities in that area. All of a sudden, the first respondent, by G.O.Ms.No.204, Revenue (LD6(1)) Department, dated 14.05.2015, fixed the lease rent at the rate of 1% of the land value, without even disclosing the land value and demanded Rs.5,11,651/- together with interest at the rate of 12% p.a. and also directed the authorities to take over the land. Consequently, the fifth respondent, by his order dated 29.06.2015 cancelled the lease granted in favour of the petitioner Society.

4.Learned Senior Counsel, by relying on the judgment of the Hon'ble Supreme Court in *M/s.Kranti Asso. Pvt. Ltd. & Another Vs. Masood Ahmed Khan & Others*, reported in 2010 (9) SCC 496, submitted that the impugned order, which has been passed without assigning any reason, is



liable to be set aside. The learned Senior Counsel has also pointed out that in the impugned order, a reference has been made as if there are arrears of rent payable by the petitioner Club and a recommendation has also been made to collect the arrears of lease rent with penal interest. The petitioner Society is a charitable body and it is established with an object to develop the sports activities in that area and therefore, they are not charging any fee from the students or any other persons, who are utilizing the lands for the purpose of sport activities. However, the first respondent, without any reason, fixed an exorbitant rent and also ordered for cancellation of lease.

5.The respondents 1 & 3 have filed their respective counter affidavits taking a stand that the lease was not renewed after 10.06.1993 and that the Government vide G.O.Ms.No.204, Revenue Department, dated 14.05.2015 cancelled the lease and ordered to collect the revised lease rent of Rs.5,11,651/- with interest @ 12 % per annum for the period from 10.06.1993 to 09.06.2011 for the delayed payment, after deducting Rs.2,80,861/-, which was already paid by the petitioner as lease rent.



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6.Learned Government Advocate, based on the counter affidavits, submitted that the petitioner-club used to collect fees from the public for watching the matches / tournaments conducted in the ground. However, for a long period of time, no sports activities have been conducted in the ground and no sort of permission was sought for by the petitioner for conducting any tournaments in the ground. In fact, the fifth respondent has taken over the possession of the property vide proceedings in Na.Ka.No.A1/8031/1990 dated 29.06.2015. He has also produced the land value of the ground for the period from 1993 to 2011.

7.Heard the learned Senior Counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents and perused the materials placed on record.

8.The petitioner is a Society registered in the year 1955. The government lands in S.Nos.468/12, 468/13, 468/14 and 469/1A to an extent of 1.30 Acres was leased to the petitioner Society by the fourth



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respondent / District Revenue Officer by proceedings dated 17.04.1980 for a period of 10 years from 11.06.1980 to 10.06.1990. This lease was extended vide G.O.Ms.No.1127, Revenue Department, dated 14.08.1991, for a further period of 3 years up to 09.06.1993. After passing of this order, the lease was not renewed further and finally, the impugned order came to be passed. It appears that the fourth respondent has sent his recommendation letter for renewal of lease on 28.07.2003. Further, the second respondent has also recommended for renewal of lease vide letters dated 25.07.2013 and 14.10.2014. The third respondent has also inspected the property on 15.05.2013. Under such circumstances, the impugned government order was passed terminating the lease. Hence, this writ petition is filed.

9.In order to ascertain the disputed facts as to the conduct of sports activity in the subject ground, this Court by order dated 05.04.2023, appointed Mr.M.Muthugeethayan, learned Counsel, as an Advocate Commissioner to inspect the property and to ascertain as to whether the petitioner Society is utilizing those lands exclusively for sports activities, without collecting any fee from the users of the land.



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10. The learned Advocate Commissioner inspected the property on 15.04.2023 and filed his report stating that there is no record to show that petitioner Society has conducted any sports activities and promoted the same free of cost. The relevant portion of the report is extracted as follows:-

“8. ... 2015 onwards, ie., after filing of the above said writ petition before this Hon'ble Court, the petitioner club has not conducted any tournaments and no records are maintained to show that without collecting any fee from the users of the lands except the above said oral statements made by them, no records namely the requisition letters for utilizing the play ground and granting permission to conduct the sports activities that too without collecting any fee from the District Level Associations as well as the Management of LK School, organized the District Level Leagues Matches from 2015 onwards and the sports day conducted by the above said school every year, ie., from 2015 onwards respectively, have not been produced by the petitioner club, no records are maintained to show that the petitioner club without collecting any fee from the above said users of the lands except the above said oral



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statements made by them. Therefore, in absence of any records maintained by the petitioner club / society as stated above for the above said play ground utilized for the above said sports activities, I am unable to ascertain that the petitioner club is utilizing the Government leased out lands in the above said survey numbers without collecting any fee from the above said users of the land. ..."

11.From the report of the learned Advocate Commissioner, it could be seen that the petitioner Society has not utilized the lands, for the purpose it was let out. Moreover, the proceedings of the Registrar of Societies, Thoothukudi, in Na.Ka,No.2955/A3/2023 dated 27.04.2023 was also produced before this Court, in which it has been recorded that the petitioner Society filed its audit and accounts only upto the year 1976-1977 and thereafter, no audits were filed by the petitioner Society. Therefore, as per Section 44(3) of the Tamil Nadu Societies Registration Act, 1975, the petitioner Society was declared as defunct in gazette on 27.02.1980. Given the fact that the Society itself is non-existent as on date, the renewal of lease would be a futile process.



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In view of the above positions, this Court is not inclined to entertain this writ petition and the same is accordingly dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Internet : Yes
Index : Yes / No
NCC : Yes / No
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22.12.2023

To

- 1.The Secretary,
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Revenue (LD6(1)) Department,
Fort St.George,
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- 2.The Commissioner of Land Administration,
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