



W.P.(Md) No.26373 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

| Orders Reserved on | Orders Pronounced on |
|--------------------|----------------------|
| 6.2.2023           | 31.3.2023            |

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR  
AND  
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(Md) No.26373 of 2022  
AND W.M.P.(Md) No.20555 of 2022 & 443 of 2023

D.Pal Duraisamy

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Petitioner

Vs.

1 The Executive Director,  
Indian Oil Corporation, Indian Oil Bhavan,  
No.139, Nungambakkam High Road,  
Chennai - 600 034.

2. The District Collector,  
Collectorate Buildings,  
Sivagangai.

3. The Revenue Divisional Officer/  
Sub Collector, Devakottai,  
Sivagangai District.

4. A.Francis

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Respondents

**Prayer:** Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents 2 and 3 to take appropriate action against the 4th respondent for illegal conversion of agricultural land in Survey No.59/1A1 and 59/1A2 comprised in Sarugani Village into dry land so as to establish a petrol pump and forbear the



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first respondent from granting license to the 4th respondent owing to him disqualification by considering the petitioner's representation dated 25.10.2022.

For Appellant : Mr.S.C.Herold Singh  
For Respondent No.1 : Mr.K.Muraleedharan  
For Respondents 2 & 3 : Mr.P.Thilak Kumar,  
Govt. Pleader  
For Respondent No.4 : Mr.G.Prabhurajadurai

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### ORDER

(Order of the Court was made by **D.KRISHNAKUMAR, J.**)

The short facts leading to filing of this writ petition are as follows:

The petitioner submits that the fourth respondent proposed to set up a petrol pump business in a property situated in Survey No.59/1A1, 59/1A2 of Sarugani Village by destroying the water channel and by illegally converting the wet land into dry land. According to the petitioner, the fourth respondent influenced the official respondents so as to obtain No Objection Certificate by manipulating the revenue records. According to the petitioner, the revenue records reveals that the subject land still remains as Nanja land. It is further submitted that the change of classification was made in total violation of the rules and also against the revenue Board standing orders. According to the petitioner, conversion could be made, if the land is dry for 5 years continuously. Therefore, the petitioner has made representation to the



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respondents. Since no response from the respondents, the petitioner has filed the instant writ petition before this Court.

2. The second respondent has filed counter affidavit wherein the allegations made by the petitioner are denied. The 4th respondent has purchased a property measuring 69 cents in S.No.59/1A, 59/1A2 of Sarugani Village which is classified as Nanjai Tharisu as per revenue records. The said survey numbers are classified as dry lands as early as 15 years ago in the revenue records and the same is verified from the copies of Adangal extract for the past 9 years. It is further stated in the counter affidavit that originally the land belongs to one Perumal Servai who sold the land to one Subbaiah in the year 2012 as he could not cultivate the said land due to paucity of water. The Tahsildar, Devakottai has conducted a field inspection on 1.2.2019 in the said land and submitted a report to the District Collector, second respondent herein vide Na.Ka.No.A2/0138/2019 dated 1.2.2019 and also Revenue Divisional Officer. Thereafter, based on the report, the District Collector after conducting personal inspection, issued a No Objection Certificate in Ni.Mu.No. H2/306/2019 dated 21.6.2019 for construction of Petrol bunk in S.No.59/1A1. Sarugani Village Panchayat President sent a petition to the District Revenue Officer, Sivagangai dated 22.7.2021 with a request not to give No Objection Certificate to the Survey No.59/1A1, 1A2 for commercial conversion. The



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Office of the District Collector also conducted personal inspection and issued a No Objection Certificate in Na.Ka.No.H2/1548/2020 dated 18.7.2022 for construction of Petrol bunk in S.No.59/1A2. Therefore, the allegation of the petitioner is totally imaginary and there is no iota of evidence to support the allegations made in the petition. Therefore, the writ petition is liable to be dismissed.

3. The fourth respondent has filed counter affidavit reiterating the stand taken by the second respondent and stated that the writ petition is filed with ulterior motive under the guise of Public Interest Litigation. The writ petition is filed only on private interest and there is no genuine cause involved in the writ petition. Therefore, seeks dismissal of the writ petition.

4. Heard the rival submissions of the parties and perused the materials available on record.

5. The primordial contention of the petitioner is that classification of the land in question was made at the instance of the fourth respondent which is total violation of the rules and also against the Revenue Board Standing orders. The 4th respondent under the guise of putting up construction, damaged the water channel and prevented the agricultural activities in and around Sarugani Village. Therefore, seeks appropriate action



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against the fourth respondent. In support of his contention, the learned counsel appearing for the petitioner relied on the Guidelines under Rule 6 (e) of Tamil Nadu Change of Land Use (From Agriculture to Non agriculture purposes in Non-Planning Areas) Rules, 2017 to be followed by the Collector for granting prior concurrence. As per the said Rules, before granting concurrence for commercial use, the Collector shall satisfy himself that the said land is not fit for continuing cultivation, whereas the subject land is wet land and cultivation is continued in the said land and therefore, cannot be converted to Non-agriculture purposes. Such view of the matter, the classification of the subject land made by the District Collector as dry land violates the Tamil Nadu Change of Land Use (From Agriculture to Non agriculture purposes in Non-Planning Areas) Rules, 2017.

6. The second respondent has filed revenue records before this Court showing that the land in Fasli No.1424, 1425, 1426, 1427, 1428 patta No. 419 issued by the Village Administrative Officer is classified as Tharisu land. The Tahsildar, Devakottai has conducted a field inspection on 1.2.2019 in the said land and submitted a report to the District Collector, vide Na.Ka.No.A2/ 0138/2019 dated 1.2.2019. Thereafter, based on the report, the District Collector after conducting personal inspection, issued a No Objection Certificate in Ni.Mu.No.H2/306/2019 dated 21.6.2019 for construction of Petrol bunk in S.No.59/1A1. On a perusal of the report shows that the fourth



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respondent has complied with all the relevant rules and based on the said report, No Objection Certificate was issued. The Tahsildar in his report dated 1.2.2019, also recommended for grant of No Objection Certificate to the 4th respondent. Based on the said report, the District Collector has issued N.O.C. to the fourth respondent. Further, it is stated in the report that only on personal enmity, objection is made. Therefore, there is no iota of truth in the aforesaid allegation made against the fourth respondent. In the counter affidavit filed by the second respondent, it is stated that the land in question was classified as dry land for more than 15 years ago and the same was verified with the copies of adangal extract. Therefore, the classification of the subject land was made as dry land prior to the Tamil Nadu Change of Land Use (From Agriculture to Non agriculture purposes in Non-Planning Areas) Rules, 2017 came into force. Therefore, the contention of the petitioner that the fourth respondent influenced the official respondents to reclassify the land in question as dry land by violating the aforesaid Rules is incorrect and the same is liable to be rejected and there is no force in the contention of the petitioner to interfere with the "No Objection Certificate" issued by the second respondent. Further, a letter submitted by the members of Sarugani Panchayat stating that there was no objection for reclassifying the subject land and also, there was no resolution passed against the construction of petrol bunk.



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7. Such view of the matter, this Court is of the view that the the classification of the subject land was made as dry land prior to the Tamil Nadu Change of Land Use (From Agriculture to Non agriculture purposes in Non-Planning Areas) Rules, 2017 came into force. The revenue records pertaining to the land in question also disclose that the land is a Tharisu land. The petitioner has not produced any materials to show that the land in question is a wet land. Therefore, we find no merit in the writ petition and consequently, the writ petition is liable to be rejected.

Accordingly, the writ petition stands dismissed. No cost.  
Connected miscellaneous petitions are closed.

(D.K.K.J.) (R.V.J.)  
31. 03.2023

Speaking/Non Speaking order

Index: Yes

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To

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