



WP.No.15503/2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

WP.No.15503/2016 & WMP.Nos.13485 & 13486/2016

K.Rajendran

... Petitioner

Vs.

- 1.The District Collector
Collector Office, Tiruppur.
- 2.The Commissioner
Dharapuram Town Municipality
Tiruppur District.
- 3.The Chairman
Church of South India
Trichy-Thanjao-Thirumangalam-Dharamapuram
CSI Compound, Dharapuram.
- 4.Aruldas
- 5.The Church of South India
Trust Association, Tiruchirappalli-Thanjavur Diocese
rep.by its Diocesan Treasurer,
Thiru Lt. [Col] S.S.Immanuvel [Retd]
Puthur, Tiruchirappalli 620 017.



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6.Rev.A.Suresh Kumar

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of certiorarified mandamus, calling for the records bearing No.Moo.Mu.12499/2015/E2 dated 27.11.2015 on the file of the 1st respondent and quash the same and to direct the 2nd respondent to demolish the construction erected by the 4th respondent and consequently direct the 1st respondent to issue patta in the name of the petitioner.

For Petitioner	: Mrs.Abirahme for Mr.V.Raghavachari
For RR 1 & 2	: Mr.J.Ravindran, AAG assisted by Mrs.S.Mythreye Chandru, Spl.GP
For R3	: Mr.P.Balamurali
For R4	: Mr.R.Srinivas, Senior counsel for Mr.K.V.Muthuvisakan
For RR 5 & 6	: No appearance

ORDER

[Order of the Court was made by S.S.SUNDAR, J.,]

(1)This vexatious litigation is by an individual for issuance of a writ of certiorarified mandamus to quash the proceedings of the 1st respondent dated 27.11.2015 and to direct the 2nd respondent to demolish the construction erected by the 3rd respondent and consequently, to direct the 1st respondent to issue patta in the name of the petitioner in respect of the property where the 3rd respondent has obtained permission to construct a Church.



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(2) Brief facts that are necessary for the disposal of this writ petition are as follows:

(3) A extent of about 6.30 acres of land in S.No.204/2 in Chitharavuthanpalayam Village, Dharapuram Taluk, Tiruppur District, was originally a Government Poramboke land. It is admitted by the petitioner himself that the Government issued G.O.Ms.No.761 dated 13.08.1996 to regularise unauthorised constructions and grant patta for eligible persons who are residing in that place. A reading of the said Government Order gives an indication that the entire extent of land in S.No.204/2 in Chitharavuthanpalayam Village, Dharapuram Municipality, is in encroachment of more than 112 families. As per the Village Accounts, it was acknowledged in the Government Order that the land stood registered in the name of "Municipal Chairman", Dharapuram. However, a request came from persons who are in possession and enjoyment of the property for conversion of land into assignable lands or as poramboke lands so that the Government can consider the claim of eligible persons to get assignment. Earlier, the 1st respondent / District



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Collector appears to have recommended for assignment of lands in favour of eligible persons who are in possession of the Government Poramboke lands in S.No.204/2. The recommendations of the District Collector was also approved by the Commissioner, Land Administration. However, no assignment of land in favour of individuals who are in possession of Government Poramboke land was granted pursuant to the Government Order and it is admitted that the lands are classified as "Natham" land as directed by the Government. However, the fact that the property was originally a Government Poramboke land and it was only to enable to the Government to consider assignment of land in favour of eligible persons, the land has been classified as "Natham". In the absence of any assignment in accordance with the Revenue Standing Orders, the property still continue to be the property of the Government and this Court has no hesitation to conclude that the lands are the lands of Government.

(4)The petitioner's parents appear to have encroached a few house sites in the same survey field and it is now admitted before this Court that the petitioner was not given any patta or assignment. This Court is able to see from the records that there is a dispute between the petitioner and the



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3rd respondent and this propelled the 4th respondent to, originally file a civil suit in OS.No.249/1990 along with other plaintiffs on the file of the District Munsif Court, Dharapuram as against the petitioner's parents and few individuals apart from the Commissioner, Dharapuram Municipality and the revenue officials including the District Collector who is the 8th defendant in the suit. The prayer in the suit is for declaration that the 4th respondent herein is the absolute owner of the property and for consequential reliefs.

(5)The said suit was dismissed by the Trial Court on 20.03.2008 holding that the plaintiffs who have constructed the Church and buildings in the Poramboke land owned by the Government without the permission from the Government, are not legally entitled to any relief in the suit. Since the Government has the authority to take steps in accordance with law in respect of the suit property, the Civil Court specifically held that the plaintiffs cannot claim declaration and permanent injunction as prayed for in the suit.

(6)It is to be noted that in the same suit, a specific finding was rendered that defendants 1 to 6 have not produced any documents to prove their case



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that they are in possession of the lands as alleged by them in the written statement. Their case that they are in possession of the land was not accepted by the Civil Court. The Civil Court has rendered a specific findings that the parents of the petitioner herein have not proved their lawful possession in respect of the property for which the suit was filed by the 4th respondent herein. The judgment and decree of the Lower Court, namely, the District Munsif Court, Dharapuram in OS.No.249/1990 was also affirmed by the Lower Appellate Court in AS.No.22/2008 by the learned Additional District and Sessions Judge, FTC-III, Dharapuram, vide judgment and decree dated 18.10.2010. It is to be seen that the Lower Appellate Court, while dismissing has also recorded the fact that the entire property in S.No.204/2 is the property of the Government. Incidentally, the Court has also found that the plaintiffs and the private defendants 1 to 6 in the suit were also found in encroachment of different parcels of land. It is pertinent to note that the specific issue, whether the suit building was in the enjoyment of defendants 1 to 6 was answered holding that the defendants had not proved their possession. Neither the title of the plaintiffs in the suit nor



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the tile of the defendants was upheld in the civil proceedings. However, taking advantage of the fact that the suit filed by the 3rd respondent herein was dismissed, the petitioner appears to have given some representation to the official respondents.

(7)The petitioner has approached the respondents for claiming patta for the land his possession. In the meanwhile, the 3rd respondent filed a writ petition earlier in WP.No.2891/1999 when the civil suit was pending. Later, the said writ petition was dismissed as withdrawn with liberty to the 3rd respondent to move the appropriate forum to establish his rights. The petitioner's mother, earlier filed WP.No.11202/2012 for issuance of a writ of mandamus to direct the revenue officials to forbear the 3rd respondent herein and the persons of Dharapuram Diocese from putting up any construction in the Government Poramboke land in respect of an extent of 48 cents out of the total extent of 6 acres in S.No.204/2. The said writ petition was disposed of by this Court vide order dated 30.07.2014, by directing the official respondents to consider the representation of the petitioner dated 08.02.2012 and pass orders on merits.



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(8) Thereafter, the petitioner's mother filed another writ petition in WP.No.12034/2015 to quash the order of the 1st respondent dated 23.12.2014 and to forbear the District Collector from permitting the respondents 2 and 3 therein from putting up any construction in the Government Poramboke land in S.No.204/2. However, the said writ petition was dismissed as withdrawn with liberty to take appropriate legal steps. It is pertinent to note that the 2nd respondent therein is none else than the 3rd respondent herein.

(9) Thereafter, the 3rd respondent submitted an application before the District Collector to give permission to renovate the Church which was in existence in TS.No.204/4 and in the said representation/application, the District Collector, after taking note of the fact that the Church was in existence for more than 100 years and it is an old Church and the representation was only to grant permission for renovation of the Church without causing any hindrance to the public or traffic, as recommended by the District Superintendent of Police, granted permission to put up the Church in terms of Rule 6[4] of the Tamil Nadu District Municipalities



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Buildings Rules, 1972. Aggrieved by the order passed by the District Collector, in terms of Rule 6[4] of the Rules, 1972, granting permission to the 4th respondent to renovate the Church after demolition of the existing structure, the above writ petition is filed by the petitioner herein.

(10)The learned counsel for the petitioner submitted that by virtue of the order passed by the Government, the land assigned in favour of several individuals and the petitioner who is also in possession of the property, are likely to be disturbed on account of the permission given to the Church to put up new construction. It is further contended that the permission has been granted to the 4th respondent to put up construction of a new Church ignoring the application of several residents for assignment. The Government has already classified the land as "Natham" only to enable the Government to assign lands in favour of persons who are eligible to get residential plot or residence. In the said circumstances, the learned counsel contended that the District Collector has no authority or jurisdiction to grant permission.

(11)The learned counsel for the petitioner pointed out from the records that the 3rd respondent has already filed a civil suit in OS.No.249/1990 and



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the said suit was dismissed. It is further pointed out that the judgment and decree of the Trial Court was also affirmed by the Lower Appellate Court in AS.No.22/2008 vide judgment and decree dated 18.10.2010. Referring to the Civil Courts decrees, the learned counsel for the petitioner submitted that the respondents 3 and 4 herein, despite losing their battle before the Civil Courts, has now been recognised as a person holding lawful title and possession in respect of the property by the impugned order.

(12) It appears that some private individuals have also filed a civil suit as against the petitioner's parents and others in respect of an extent of 70 cents in the same Ward. The said suit appears to be in respect of property which is adjacent to the existing Church. It gives an indication that there is a dispute between two factions in the same Village in respect of different parcels of land. However, the petitioner's exclusive right in respect of any portion of the land was not dealt with nor declared in favour of the petitioner. At best, from the records it is seen that the entire extent of 6 acres and odd in S.No.204/2 is classified as "Natham", but owned by the Government. No assignment has been made in respect of



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any portion of land in favour of anyone and the entire land is treated as Government Poramboke land. The encroachments were not removed by virtue of the earlier decision of the Government to assign the lands to eligible persons in the locality.

(13)The petitioner has now come forward with the present writ petition without any right to claim ownership over any portion of the land which is in the enjoyment of the 4th respondent. As pointed out by this Court earlier, the petitioner's possession in respect of any portion of the land is not an issue considered and decided by the civil court in the two rounds of litigation. In the entire petition, except stating that the petitioner is residing along with 212 families in Government Poramboke land, this Court is unable to find any record which would show the lawful holding and possession of the petitioner in respect of any specific parcel of land.

(14)A Status Report dated 11.04.2019 is filed by the 1st respondent / District Collector immediately after the filing of the writ petition. From the Report, it is seen that the official respondents have recognised the fact that the entire extent of 6 acres and odd in TS.No.204/2 is classified as "Natham Poramboke" and that about 200 families of Adi Dravidar and



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Adi Dravidar Christian People are living in the said property. The District Collector has specifically referred to the intention of petitioner's parents who wanted to extend their constructions on the western side of their existing houses which belongs to the Church area. It is to be noted further that the case of the petitioner has been specifically denied by the District Collector with reference to facts. It is specifically contended by the District Collector that permission for reconstruction of the Church was granted to the respondents 3 and 4 in accordance with the procedure contemplated under Rule 6[4] of the Tamil Nadu District Municipalities Building Rules, 1972.

(15) Surprisingly, it is to be noted that the Status Report gives a clear indication that the petitioner and his mother have indulged in filing several litigations and that they are in encroachment of substantial portion of land by constructing 7 houses. It is also stated that the petitioner and his mother have rented them to third parties.

(16) The subsequent Status Report filed by the 1st respondent / District Collector, dated February 2024 further indicates that the encroachments of petitioner and his family members who frequently quarrel with the



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Church authorities only for the purpose of making way for additional construction in their existing buildings on the western side which is being used by the Church authorities. The following table would show the economic status of the children of petitioner's parents:-

S.No.	Name of the Legal Heirs	Relationship	Economic Status
1	Thiru.Rajendran [Writ Petitioner]	Son	He is an Ex-service man. He has worked as driver at Central Excise Office, Tiruppur, and retired from service and getting pension. He is having own house in Coimbatore District.
2	Thiru.Senthilkumar	Son	He is working as Clerk at Fast Track Court, Bhavani, Erode District. His wife Elizabeth, is working as Teacher at CSI School, Kavunthapadi, Erode District. He is having own house at Gobichettipalayam, Erode District.
3	Thiru.Sukumaran	Son	He worked as Night Watchman at Dharapuram Municipality, retired and getting pension. Now, again he is working as Night Watchman at Dharapuram Municipality on contract basis. His wife Kalaiselvi is working as Hostel Warden at CSI Higher Secondary School, Dharapuram. He is having own house at Malar Nagar, Pollachi Road, Dharapuram.
4	Thiru Baskaran	Son	He is an Ex-service man getting military pension. Now he is working as security at SBI, Sungam Branch, Coimbatore. His wife Ananthakumari is working as Teacher at Elementary School, Malumichampatti, Coimbatore District. He is having own house in Coimbatore District.
5	Thiru Jeyachandran	Son	He is working as Fair Price shop



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S.No.	Name of the Legal Heirs	Relationship	Economic Status
			Salesman at Udumalpet and also living at Udumalpet.
6	Tmt.Glory	Daughter	She is working as Headmistress at Panchayat Union Elementary School, Thopppampatty, Dharapuram Taluk. Her husband Anthonimuthu is working as Teacher at CSI Higher Secondary School, Dharapuram
7	Tmt.Ramani	Daughter	Her husband Dhanapal has worked as Checking Inspector at State Transport Corporation, Coimbatore. After demise of her husband, she is getting pension and having own house at Singanallur, Coimbatore District.

(17)From the facts narrated in the counter affidavit filed by the 4th respondent and the official respondents, the total extent of 6 acres though classified as "natham", the same was originally a Government Poramboke land. Despite a decision was taken by the Government to identify eligible persons suitable for getting assignment of land as house site, no residents in that area had obtained assignment or house site patta. It is to be noted that the entire land is occupied by persons who belong to Schedule Caste Community. For the benefit of majority, the 3rd respondent had put up a Church long back. Since most of the people are living in poverty line,



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the Government can assign house site or house site patta only for eligible persons, depending upon their economic status. The petitioner is yet to prove his eligibility to get assignment. If the petitioner has encroached substantial portion of land and constructed multiple houses, apart from owning houses elsewhere, the petitioner can be treated as an encroacher and to be vacated.

(18) It is in the said background of the case, this Court finds that the impugned order is perfectly in order and is in accordance with the jurisdiction and power conferred on the District Collector. Merely because an individual has objection for the private respondents to construct a Church, permission cannot be denied especially for the reasons found in the impugned order. This vexatious petition is filed by a single individual with a motive to grab some more land.

(19) Having regard to the stand taken by the official respondent in the Status Report and in the counter affidavit, while dismissing the writ petition, the official respondents shall take appropriate action against the petitioner or anyone if they are in possession of more extent of land than to which they are entitled to even for assignment. The persons who are not eligible for



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assignment have to be treated as encroachers. The 1st respondent is directed to hold an enquiry through the Tahsildar concerned and take appropriate action for removal of encroachment by persons who have put up unauthorised constructions if it is found that the individuals who had put up construction, are not eligible for assignment. The respondents shall also regularise the encroachment as far as possible in cases where people who are in possession and put up construction, are eligible for assignment in accordance with the Rules or the Revenue Standing Orders applicable for assignment of lands for SC/ST people or to people who belong to economically weaker sections or marginalised communities. Such exercise shall be completed by the official respondents after issuing show cause notices to the concerned within a period of six months from the date of receipt of a copy of this order.

(20)The writ petition stands **dismissed**. No costs. Consequently, connected miscellaneous petitions are closed.

[S.S.S.R., J.] [N.S., J.]
05.03.2024

AP
Internet : Yes



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To

- 1.The District Collector
Collector Office, Tiruppur.
- 2.The Commissioner
Dharapuram Town Municipality
Tiruppur District.



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S.S. SUNDAR, J.,
and
N.SENTHILKUMAR, J.,

AP

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