



W.P.No.21616 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2024

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CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.21616 of 2018
and W.M.P.No.25376 of 2018

T.A.Samy Chettiar

... Petitioner

Vs.

1.Sub-Registrar,
Office of Sub-Registrar,
Thirpathur,
Vellore District – 635 601.

2.District Registrar,
Office of District Registrar,
Vellore District.

3.Inspector General of Registration,
No.100, Santhome High Road,
Mylapore, Chennai – 600 004.

4.The Tahsildar,
Office of Tahsildar,
Krishnagiri Road, Tirupattur,
Vellore District – 646 601.

5.The Collector,
District Collector Office,
Sathuvachari,
Vellore – 632 009.

(R4 & R5 impleaded as per Court order dated 26.09.2018 by RMDJ in



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W.M.P.No.27787 of 2018)

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorari calling for the records of cancellation notice dated 13.08.2018 bearing Na.Ka.No.213/2018 issued by the First respondent and quash the same.

For Petitioners : Mr.P.V.Balasubramaniam,
Senior Counsel

For Respondents 1 to 3 : Mr.M.Shahjahan,
Special Government Pleader

For Respondents 4 & 5 : Mr.K.Surendran,
Additional Government Pleader

ORDER

The petitioner has filed this petition seeking direction to the respondents herein to consider their representation dated 19.07.2018.

2. The case of the petitioner is that the petitioner is the Managing Trustee of “Chinna Chettiar Trust constituted under a deed of partition dated 24.01.1892 and registered as Doc.No.129/1982. The trust has developed the property into shops and let out the shops to various persons by executing registered release deeds on various dates. This being the case, the lessees



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have received a show cause notice in Na.Ka.B2/4924/2018 dated 10.08.2018 issued by the Tahsildar/fourth respondent. In this regard, the fourth respondent has summoned for personal enquiry on 24.08.2018. However, without providing fair opportunity, the first respondent has issued a cancellation notice in Na.Ka.No.213 of 2018 dated 13.08.2018 and claimed that the trust property was recorded a “Nanthavanam Porambokku” in the Government records. Challenging the said proceeding dated 13.08.2018, the petitioner has come forward with the present writ petition.

3. Learned senior counsel for the petitioner submitted that the “Chinna Chettiyar Trust” was formed in the year 1892 under a deed of partition dated 24.01.1892 and they are in possession of the said land. The trust has developed the property into shops and let out the shops to various persons by executing registered lease deeds on various dates. The fourth respondent/Tahsildar has issued the show cause notice in Na.Ka.B2/4924/2018 dated 10.08.2018 only to the lessees stating that the property in dispute is a “Nandavanam Sarkar Porambokku” belongs to the Government and the lessees to give explanation in this regard and if the lessees failed to give the said explanation, the lease deed executed by the



petitioner to the various lessees will be cancelled and no notice was issued to the petitioner and the same is in violation of Principles of Natural Justice. However, till date, no lease deed was cancelled by the fourth respondent/Tahsildar.

4. Learned senior counsel for the petitioner further submitted that at the time of filing this writ petition, the petitioner has failed to implead the Tahsildar, Tirupattur and The Collector, Vellore, who are the necessary parties in this writ petition. Hence, the learned counsel for the petitioner has filed an impleading petition in W.M.P.No.27787 of 2018, which was allowed by this Court vide order dated 26.09.2018 and the Tahsildar, Tirupattur and The Collector, Vellore were impleaded as respondents 4 & 5.s

5. Learned senior counsel for the petitioner further submitted the tenants are in possession of the aforesaid land and the petitioner is also having a patta to that effect to show that they are in possession.

6. Learned Special Government Pleader appearing for the respondents has filed a counter affidavit. For better appreciation and understanding, the



relevant paragraphs are extracted hereunder:

“ 3. the Tahsildar Thiruppattur has sent a Letter to this respondent in No.B2/4924/2018 dated 19.7.2018 informing that the land measuring 5848 Sq.mtr., in T.S.No.438, Ward No.I, Block 17 of Tiruppattur Municipality is classified as Government Poramboke Nandavanam and hence it belongs to Revenue Department. The Tahsildar has further requested not to register any deed in the said Survey field. This respondent has considered the letter of the Tahsildar and noted the same in his records for adherence. This respondent further examined the previous transactions made in the said Survey No.438. It was noticed that several lease deeds have been executed by the Petitioner granting lease of portions of Survey No.438 to several persons. As it was brought to the notice of this respondent that Survey No.438 belongs to Government, this respondent has informed the Petitioner of the fact and requested the Petitioner to cancel the lease deeds himself by a notice dated 13.8.2018. This respondent has not cancelled the lease deeds as alleged by the Petitioner. Aggrieved on the said notice dated 13.8.2018 of this respondent, the petitioner has filed the Writ Petition.

4. Even in the Partition deed dated 24.1.1892 registered as document No.129/1892, it is seen the classification of item No.34 of the property is stated as "Nandavanam Poramboke only. Hence when the property has been stated as "Nandavanam Poramboke" in the year 1892 itself, the Petitioner cannot claim the same to be belonged to the Trust.

5. This respondent has not cancelled the registration of any lease deed executed by the Petitioner. Hence issue of any show cause notice to the petitioner is not warranted.”



7. Heard the learned counsel on either side and perused the materials available on record.

8. It is an admitted fact that the land is a “Nanthavanam Poramboke”, which was mentioned in Item No.34 in the partition deed dated 24.01.1892 and the petitioner is in possession of the same. However, without any notice and opportunity of personal hearing to the petitioner as well as other tenants, the impugned cancellation notice in Na.Ka.No.213 of 2018 dated 13.08.2018 was issued by the first respondent which is in total violation of the Principles of Natural Justice. Therefore, the said cancellation notice dated 13.08.2018 is liable to be quashed and the same is hereby quashed. If at all any fresh action is required to be initiated by the Tahsildar/fourth respondent, he may issue fresh notice to the petitioner as well as other tenants, affording an opportunity of personal hearing, to consider the relevant documents submitted by the petitioner and other tenants at the time of the enquiry in regard to the subject matter property and pass appropriate orders on merits, in accordance with law and by following/observing the above principles of natural justice, within a period of three months from the date of receipt of a copy of this order.



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9. This Writ Petition is allowed with the aforesaid observation and directions. No costs. Consequently, connected miscellaneous petition is also closed.

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Index : Yes/No

Speaking Order : Yes/No

To:

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2.District Registrar,
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4.The Tahsildar,

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J.SATHYA NARAYANA PRASAD,J.

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