



WEB COPY



W.P.No.13087 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2024

CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.P.No.13087 of 2019
and
W.M.P.No.13212 of 2019

GHCL Limited,
rep. by its Vice President
and Chief Executive Officer,
Shri Gopa Kumar Menon having
its registered office at 'GHCL House',
Opp. Punjabi Hall, Navrangpura and
Salt Works at
Kadinavayal, Vedharanyam,
Tamil Nadu-614 707

... Petitioner

Vs.

1.The District Collector,
Nagapattinam, Nagapattinam District.

2.The Tahsildar,
Office of the Tahsildar,
Vedaranyam, Vedaranyam Taluk,
Nagapattinam District

3.The Block Development Officer(Panchayat),
Officer of the Taluk Development Office,
Vedaranyam, Vedaranyam Taluk,
Nagapattinam District.



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4.T.Malarvizhi,
The Ex-President,
Kadinalvayal Village Panchayat,
Kadinalvayal Village, Vadarniyam Taluk,
Nagapattinam District.
(R4 impleaded as per order dated 19.02.2024
in WMP. No.23243 of 2019 in
WP. No.13087 of 2019 by SMSJ & KRJ)

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India in the nature of Writ of Certiorarified Mandamus, to call for the records of the second respondent in proceedings bearing Na.Ka.No.5684/2012/A2 dated 22.04.2019 and quash the same and pertaining to the land measuring 10 acres and comprised in Survey no.133/1, Kadinavayal Village, Vedharanyam Taluk, Nagapattinam District and consequently, forbear the respondent nos.1 to 3 from in any manner interfering with the petitioner's possession of the said property and from dealing with the said property.

For Petitioner	: Mr.S.R.Rajagopal, Senior counsel for Mr.Balamurali
For R1	: Mr.A.Selvendran, Spl.G.P. for R1 to3
For R4	: Mr.S.Shanmuga Sundaram for Mr.R.Muruga Bharathi

ORDER

(Order of this Court delivered by S.M.SUBRAMANIAM,J.)

The proceedings dated 22.04.2019 issued by the Tahsildar, Vedaranyam Taluk, asking the petitioner to vacate 10 acres of land in



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R.S.No.133/1 at Kadinelvayal Village, which is classified as “Meikal Poramboke” (grazing land), is under challenge in the present Writ Petition.

2. Mr.S.R.Rajagopal, learned Senior counsel appearing for the petitioner would submit that the petitioner Company is the lessee and a Deed of Lease was executed commencing from 01.04.2003 for 20 years. Pursuant to the lease executed by the Government, the petitioner Company has developed salt plant and processing unit. Admittedly, the petitioner Company has been in occupation of more than 3000 acres of Government land currently.

3. Originally, the Government land was leased out in favour of one M/s.Wimco Limited and thereafter, it was leased out in favour of M/s.Dharangadhara Chemicals Works Limited and finally, the lease was granted in favour of petitioner Company with effect from 01.04.2003. Pertinently, the subject Government land measuring to an extent of 10 acres in R.S.No.133/1 classified as "Meikal Poramboke" is not the subject matter of lease in the Lease Deed executed by the Government in favour of the writ petitioner dated 01.04.2003. Therefore, it is amply clear that the Government



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land measuring an extent of 10 acres classified as "Meikal poramboke" was not leased out in favour of the petitioner at any point of time, but it remained as grazing land. The learned Senior counsel would submit that 'enter upon permission' was granted by the Tahsildar to use the said land by the petitioner Company. In this context, the petitioner made a request for usage of "Meikal Poramboke" land through their representation dated 07.06.2012. In the said request letter submitted by the petitioner, they have clearly made a request for lease of "B-Memo Land" in R.S.No.133, Kadinavayal Village, Vedharanyam Taluk. However, an 'enter upon permission' was granted in respect of R.S.No.133, Kadinavayal Village, Vedharanyam Taluk. The said enter upon permission was granted for usage of 10 acres of 'Meikal Poramboke' land by the erstwhile lessor viz., M/s.Wimco Limited. However, no order has been passed on the representation submitted by the petitioner for lease of "B- Memo Land" in R.S.No.133 based on their request dated 07.06.2012.

4.The learned Senior counsel would contend that the Tahsildar, Kadinavayal Village, Vedharanyam Taluk has elaborately recommended the case of the petitioner through his letter dated 11.07.2016 addressing to the



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District Collector, Nagapattinam. The said recommendation would reveal that even 'enter upon permission' was granted originally in favour of M/s.Wimco Limited, in respect of the subject land measuring 10 acres (Meikal poramboke) in R.S.No.133/1, Kadinavayal Village, Vedharanyam Taluk and in view of the said enter upon permission, levy of charges were made on the writ petitioner after 2003 onwards, the date from which they became lessee in respect of the entire extent of subject land in R.S.No.133. Admittedly, the District Collector has not passed any orders nor recommended the case of the petitioner to the Government for passing appropriate orders. Mere recommendation by the Tahsildar would confer no right on the petitioner to claim lease of the subject land measuring 10 acres (Meikal Poramboke). Importantly, the lease executed on 01.04.2003 had expired on 31.03.2023, on completion of 20 years period. Admittedly, the lease was not renewed by the Government. An application filed by the petitioner company is pending. As on today, the petitioner is an 'unauthorized occupant'. The Government Order issued in G.O.145, Revenue(Ni.Mu.6-1) Department dated 11.03.2008 regarding granting lease to the petitioner un-ambiguously portrays that R.S. No.133/1 measuring 10 acres(Meikal Poramboke) is not the subject matter of lease granted in favour

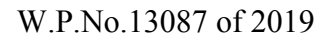


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of the writ petitioner. The lease is for a period of 20 years, which had already expired during the pendency of the writ petition and renewal was not granted.

5.The learned Senior counsel would submit that the order impugned passed by the Tahsildar is untenable since he has no jurisdiction to issue any such order. Further, no notice or opportunity was granted to the writ petitioner to defend their case and an unilateral decision was taken asking the petitioner to vacate the Government land measuring 10 acres in S.No.133/1, which is classified as "Maikal Poramboke". Thus, the petitioner has chosen to file the present Writ Petition.

6.The Board Standing Orders 24-A provides grant of land and buildings at the discretion of the Government for temporary occupation for non-agricultural purposes subject to certain conditions. The lease for 20 years in favour of the petitioner was granted by invoking BSO 24-A. Clause 2 stipulates the period of temporary occupation. Accordingly, the maximum period would not generally exceeds for 3 years for Bunks, Shops etc. However, the Government may grant any lease for a period of 20 years. At



8.The Board Standing Order 26 deals about 'unauthorised occupation of Government land'. Clause (1) lays down the procedure to be followed in dealing with unauthorized occupation of “lands which are the property of the Government”. Clause 3 stipulates that separate notices under Section 7 of the

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Tamil Nadu Land Encroachment Act, 1905 (in short, 'the Act') should be served on each occupant and such notices may be issued by the Tahsildar of the taluk or the Deputy Tahsildar of the sub-taluk or taluk in which the land is situated. Therefore, it is clear that the unauthorised occupants of the Government lands can be evicted by invoking the provisions of the Act, which is contemplated under BSO 26.

9. The issues raised can be divided into two parts. First part is in respect of the lease granted in favour of the petitioner with effect from 01.04.2003, which expired on 31.03.2023. The petitioner company is in unauthorised occupation. Admittedly, the lease was not renewed by the Government by following the procedure as contemplated under Board Standing Order. The second part would be that the disputed land measuring 10 acres classified as "Maikal poramboke" was not leased out in favour of the petitioner, even when the lease granted with effect from 01.04.2003. Therefore, the subject land measuring 10 acres of land was not leased out based on 'enter upon permission' granted in the year 1964 to the erstwhile M/s.Wimco Limited. The petitioner continued to be in occupation. A request is made for grant of lease of "B-Memo Land" was not considered by



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the Government. Therefore, in respect of the said land measuring 10 acres in R.S.No.133/1, Kadinavayal Village, Vedharanyam Taluk, the petitioner is an encroacher. They are liable to be evicted by following due procedures contemplated under the provisions of the Act. In respect of unauthorised occupants, mere recommendation of the Tahsildar to the District Collector would not provide any cause or confer any right on the petitioner to claim lease of the Government land or to occupy the Government land beyond the period of lease. In the present case, levy of assessment on the land unauthorisedly occupied in respect of 10 acres was made by the authorities. In this context, *proviso* to Section 3 of the Act envisages that the payment of assessment or prohibitory assessment under this section shall not confer any right of occupancy. Therefore, mere levy of assessment on the unauthorised land would not confer any right to seek any relief and in any event, the encroachment ought to be evicted by following due procedure. Thus, levy of assessment or recovery is not the ground for claiming any relief in the present case.

10. In view of the facts and circumstances, the petitioner company has not established any right for grant of relief. However, the order impugned states that the petitioner has to vacate the grazing land measuring 10 acres in



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RS.No.133/1, Kadinavayal Village, Vedharanyam Taluk failing which, further action will be taken. Thus the petitioner company is at liberty to submit their objections. Thus, the order impugned dated 22.04.2019 is converted as notice under Section 7 of the Act. The petitioner company is permitted to submit their objections within 10 days from today. On receipt of any such objections, the competent authority shall look into the same and identify the encroachments in Government land and accordingly, evict the encroachers after passing an order under Section 6 of the Act. The entire exercise of consideration of objections if any filed by the petitioner and resumption of land after evicting the unauthorised occupants are to be carried out within a period of 12 weeks from the date of receipt of a copy of this order.

11. With the above observations, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[S.M.S.J.] [K.R.S.J.]
08.03.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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