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C.R.P. No.1428 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 29.07.2024

PRONOUNCED ON : 26.09.2024

CORAM

THE HONOURABLE **MR.JUSTICE BATTU DEVANAND**

C.R.P. No.1428 of 2021

and CMP.No.11145 of 2021

1. The Deputy Commissioner,
(Revenue and Finance)
Estate Officer,
Greater Chennai Corporation,
Chennai 600 003.
2. The Zonal Officer,
Zone-6, Greater Chennai Corporation,
Ayanavaram, Chennai 600 023.

... petitioners

Vs.

Hindu Union Committee School,
Rep. by its Secretary D.Chandrasekaran,
185, D' Melloes Road,
Chennai 600 012.

... respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order passed by the Principal Judge, City Civil Court, Chennai in CMA.No.75 of 2018, dated 21.01.2020.



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For Petitioners : M/s.K.Aswini Devi

For Respondent : Mr.J.R.K.Bhavanantham

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 21.01.2020 in CMA.No.75 of 2018 passed by the Principal Judge, City Civil Court, Chennai.

2. The brief facts that are necessary for disposal of the case would run thus:

The land measuring an extent of 32 grounds in Survey No.1730/1, Puraswalkam Taluk, Vepery was owned by Chennai Corporation. The said land was given as lease to the respondent School for 20 years vide lease deed No.2376/1947. Thereafter, in the year 1962, a council resolution No.291/1962 dated 24.10.1962 was passed to sell 25 grounds of land out of the 32 grounds to the respondent. Subsequently, the said land was sold to the respondent School vide Doc.No.55/1963, dated



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02.01.1963. Apart from this land, lease was continued for the remaining 7 grounds of land for a monthly rent of Rs.4/-. As such, the lease period was expired on 11.12.1967. Therefore, the petitioner sent a demand notice to pay a sum of Rs.35,32,186/- for damages and service tax. Subsequently, the Estate Officer has passed an order dated 09.11.2018 under Section 5(1) of Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act 1975 calling upon the respondent to deliver vacant possession of the said property. Hence, the respondent School filed CMA.No.75 of 2018 before the Principal District and Sessions Judge, City Civil Court, Chennai. The said CMA.No.75 of 2018 was allowed by decree and judgment dated 21.01.2020. Aggrieved by the same, the present Civil Revision Petition has been filed.

3. It is the case of the respondent that they are running an aided School in the subject premises. Originally, the Corporation leased out 32 grounds of land to the respondent for running School in the year 1947. Subsequently, in the year 1963, out of the 32 grounds, 25 grounds were sold



at a nominal price to the School and the lease to the remaining 7 grounds was continued. Thereafter, the lease was expired on 11.12.1967 and the respondent School continued to pay the rent till 2005. That being so, a notice was issued in the year 2017 under the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act to pay a sum of Rs.37,88,491/- for damages and service tax. Followed by that, an impugned order of eviction was passed on 09.11.2018 stating that the respondent School is in unauthorised possession of the said premises. However, the respondent is not an unauthorised occupant of the land and that the notice under Section 4(1) of the Act does not contain any reason for eviction of lawful lessee from the premises. The Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act 1975 is not applicable to the facts of the case.

4. It is the further case of the respondent that the respondent School is being run without any profit, only with a view to promote education in the locality, which is very backward and contains slum dwellers. However, the first petitioner has fixed abnormal amount as damages for use and occupation. The Corporation is trying to evict the school authorities from the premises, which was leased out much before the enactment of the Public



Premises (Eviction of Unauthorised Occupants) Act, 1971. In the disputed premises, the playground is situated. It is to be seen that without the playground, as per rules, the School could not be continued. Under such circumstances, without any bonafide requirement, the present impugned order has been passed. The Public Premises (Eviction of Unauthorised Occupants) Act quoted in the impugned order itself is not applicable and the only remedy open to the Corporation is by invoking the General Law, i.e., Transfer of Property Act to evict the respondent School from the premises.

5. On the other hand, the petitioner Corporation would submit that the School is having only a strength of 115 students. The land admeasuring an extent of 25 grounds out of 32 grounds, which was already sold to the respondent is sufficient for running the School. Out of the total extent of 50000 sq.ft. the building is only in 10000 sq.ft. and the remaining 40000 sq.ft. is lying vacant, which is sufficient for the Institution to accommodate the playground for the School. It is further contended by the petitioner that as per the lease deed, the Corporation is at liberty to terminate the lease at any time for its use and occupation. Further, the respondent is in arrears of Rs.37,88,491/- towards use and occupation from 01.04.1989 to 31.03.2018.



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After giving proper notice under the Act, the eviction order has been passed by the Estate Officer.

6. The main grounds raised by the respondent School before the Court below is that the Act is not applicable and the subject property is not required for bonafide use of the Corporation and the alleged arrears for use and occupation is highly imaginary.

7. The Trial Court by relying on the decision of ***Suhas H.Pophale vs. Oriental Insurance Company Limited and its Estate Officer*** reported in (2014) 4 SCC 657 and held that the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 itself is not applicable to the disputed premises. Further, with regard to the second point it held that the Corporation has not stated briefly as to for what purpose the land is required by them and by simply stating that the land is required for own purpose, eviction cannot be ordered. Thus, the Trial Court allowed the CMA.

8. I have carefully considered the arguments on both sides and gone through the entire materials available on record.



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9. The property admeasuring 32 grounds was originally leased out to the respondent School Committee and out of 32 grounds, 25 grounds were sold out to the School and in the remaining 7 grounds, the School Committee is continuing as lessee, are admitted facts. As per the respondent School, the actual rent payable is only a sum of Rs.48/- per year. It is their contention that amount has been paid till 2006 and subsequently, the Corporation did not receive the rent.

10. On careful perusal of the materials available on record, it appears that the lease deed was executed by the petitioner in favour of the respondent School for 32 grounds in the year 1947. Subsequently, the sale deed was executed on 02.01.1963 for 25 grounds of land and the remaining 7 grounds of land was leased out to the respondent. As such it is clear that the respondent has been continuing as lessee from 1947. As seem from the the above facts, it came to understand that the respondent entered into lease with the petitioner Corporation prior to 1975. Therefore, the finding of the Appellate Court on deriving the law laid down by the Apex Court in the ***Suhas H.Pophale vs. Oriental Insurance Company Limited and its Estate***



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Officer (as stated supra) that the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act 1975 is not applicable to the disputed premises as the said Act is not retrospective effect, needs no interference of this Court. The Appellate Court also considered the guidelines issued by the Central Government, which were issued to avoid bias/selective implementation of use of provisions of Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act 1971 by the authorities and held that the said guidelines applies to the State Legislation i.e., Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act 1975 and for the case on hand also.

11. Besides this as admittedly, the respondent is running a School aided by the State Government. The learned counsel for the respondent has placed a statement of students strength for the year 2023-24. According to that, 525 students are studying in the said School. On perusal of the statement of the particulars of the students, it discloses that most of the students, i.e., more than 95% of the students belong to marginalised section of the Society, i.e., S.C., M.B.C., and B.C. and minorities. It is an admitted fact that as per the education policy of the State and Central Governments,



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every educational institution should have a play ground for the benefit of the students.

12. Engaging in games and sports help students inculcate discipline and self-confidence. Participating in games and sports help relieve stress and sharpen the minds of students. Sports instill the spirit of teamwork and sportiveness which will further be helpful in the future life of the students. Children should be encouraged to participate in games and sports from a young age to strengthen their bodies and minds.

13. Without playgrounds and sports infrastructure, students are deprived of the facilities to participate in sports. The lack of professional infrastructure, training and financial support is reflected in the substandard performance of our country on international platforms. Provision of playgrounds in schools and education institutions is necessary. Moral, infrastructural and financial support should be provided to promote the participation of youth in sports. Given the right facilities, India's youth has the potential to thrive on international platforms and establish our country as a global leader.



14. In the present case, the respondent is contending that 7 grounds of land is required for playground for the benefit of students studying in the School. However, the learned Standing Counsel for the petitioner submits that the petitioner Corporation intends to develop a playground in the said 7 grounds of land to accommodate the local youths to utilise it as a playground. If the intention of the petitioner is to develop the land as playground for the benefit of neighbouring local youths, the said land can be alienated to the respondent School on payment of market price or on executing a lease in favour of the School for the benefit of the students studying in the School, who belong to poor and marginal sections of the Society, to encourage them to participate in games and sports activities. The petitioner may have number of vacant lands in the surrounding areas to develop them as playground for the benefit of local youths, but 7 grounds of land which is the subject matter in the present case is part and parcel of the total of 32 grounds of land. It was originally allotted to the respondent School and the 7 grounds of land is situated besides the 25 grounds of land sold to the respondent School by the petitioner Corporation. It is very much useful for utilising it as a playground for the benefit of the students studying in the said School.



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15. As seen from the above, it is established that Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act 1975 is not applicable to the present case and the petitioner failed to establish the requirements of the said land for any bonafide requirement. As such this Court is of the considered view that the Appellate Court had considered all aspects elaborately and passed a valid and reasoned order and as such, there is no reason to interfere into the same.

16. Accordingly, the order of the Appellate Court is confirmed and the present Civil Revision Petition is dismissed.

No costs.

Consequently, connected miscellaneous petition is closed.

26.09.2024

pvs

Index : Yes / No

Internet : Yes / No

To
The Principal Judge,
City Civil Court, Chennai.



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pvs

Pre-delivery Order in
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