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WP.No.13180 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

WP.No.13180 of 2024
WMP.No.14321 of 2024

St.Patrick Church by its Parish Priest
Fr.Shylock Stephen, St.Thomas Mount
Chennai-16

Petitioner

Vs

1. The Member Secretary, Chennai Metropolitan Development Authority
Chennai-8
2. The Commissioner, Greater Chennai Corporation, Chennai-3
3. The Regional Deputy Commissioner (South),
Greater Chennai Corporation, Chennai-20
4. The Tahsildar, Maduravoil, Chennai
5. The Hussainy Trust, by its Secretary
Thousands Lights, Chennai
6. M/s.ASV.Constructions (P) Limited by its Director
Vaibhav B.Kamdar, Chennai-10
7. The District Collector, Chennai

Respondents

Prayer:- This Writ Petition has been filed, under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the Respondents 1 to 4 to take action against the Respondents 5 and 6 in terms of the Tamil Nadu Town and



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Country Planning Act for the unauthorised construction put up in Door No.77, Ramapuram Village, Maduravoyal Taluk, comprised in S.No.153/2 and S.No.153/3, measuring an extent of 3.85 acres and demolish the same.

For Petitioner : Ms.G.Selvi George

For Respondents : Mr.G.Ameedius, GA-R4
Mr.R.Sivakumar, Standing Counsel-R1
Mr.R.Parthasarathy for Mr.Kumarpal R.Chopra-R6
Mr.Aiyesh B.Dolia, SC-R5
No Appearance-RR2 and 3

ORDER

(Order of the Court was made by S.S.SUNDAR, J.)

1. This Writ Petition has been filed for issuance of Writ of Mandamus, directing the Respondents 1 to 4 to take action against the Respondents 5 and 6 in terms of the Tamil Nadu Town and Country Planning Act for the unauthorised construction put up in Door No.77, Ramapuram Village, Maduravoyal Taluk, comprised in S.No.153/2 and S.No.153/3, measuring an extent of 3.85 acres and demolish the same.
2. The brief facts, as set out in the affidavit filed in support of this Writ Petition, are as under:-
 - (a) The subject property, measuring an extent of 3.85 acres comprised in S.Nos.153/2 and 153/3, Ramapuram Village, Maduravoyal Taluk, originally belonged to one Karlin Kanagammal, by virtue of a registered sale deed, dated 25.11.1922, which was registered as Document No.3030 of 1922, on the file of the Sub Registrar Office, Saidapet. The



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subject property was later gifted by Karlin Kanagammal, by virtue of a gift deed, dated 18.03.1938, in favour of the Petitioner Church for the benefit of running a School at St.Thomas Mount, which comes under the Ecclesiastical jurisdiction of the Diocese of Chengalput. Possession of the subject property was also handed over to the Petitioner. The subject properties were originally under the Ecclesiastical jurisdiction of the Arch Diocese of Madras Mylapore and it was divided into Roman Catholic Diocese of Madras Mylapore and Roman Catholic Diocese of Chengalput. The Diocese of Chengalput Society was formed on 28.10.2002 and the same was registered under the Societies Registration Act. After bifurcation, the Diocese of Chengalput became the absolute owner of certain immovable properties, which are in Kancheepuram District by virtue of Rome passing a Congregatio Pro Gentium Ivangelization decree. The title deeds in respect of the property were also handed over to the Petitioner Church by the original owner and the Petitioner is in possession and enjoyment of the entire property as absolute owner.

- (b) The 5th Respondent, who is an utter stranger, started to interfere with the Petitioner's peaceful possession and enjoyment of the subject property. On enquiry, the Petitioner came to know that the 5th Respondent claimed some title as a beneficiary of land acquisition proceedings, initiated by the State Government for the purpose of running a Trust in the name of



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Madrasa Hussainy Trust. However, the properties in S.No.153/2 and 153/3 were never subjected to any land acquisition proceedings at any point of time. The acquisition mentioned had not been acted upon. The Petitioner was not paid any amount by way of compensation and therefore, the Petitioner continued to be in possession of the property.

(c) The Petitioner has also filed a suit in OS.No.383 of 2019 for permanent injunction before the District Munsif Court, Poonamallee and the said suit is pending. Even though the 5th Respondent is not the owner, the 6th Respondent is trying to put up a construction in the property without any planning permission required under Section 49 of the Tamil Nadu Town and Country Planning Act. Even though a few representations were submitted by the Petitioner to initiate action against the Respondents 5 and 6 for removal of unauthorised construction put up in the subject property, under Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, the Official Respondents are not taking any action. Hence, this Writ Petition has been filed by the Petitioner Church, seeking the relief as stated above. Along with the Writ Petition, the Petitioner has also filed a Miscellaneous Petition for interim injunction, restraining the Respondents 5 and 6 from putting up any construction in the subject property, measuring an extent of 3.85 acres.

3. This Court heard the learned counsel for the Petitioner and the contesting



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Respondents, considered their submissions and also perused the material records placed before this Court.

4. At the outset, it is to be stated that this Writ Petition has been filed based on a stale claim by the Petitioner/St.Patrick Church, represented by its Parish Priest Fr.Shylock Stephen, St.Thomas Mount, Chennai-16, suppressing material facts.
5. The learned counsel for the Petitioner, after claiming title over the subject property, made a request before this Court that this Writ Petition may be disposed of without reference to the specific averments made by the Respondents and the specific case of the Petitioner, claiming title.
6. The learned counsel for the Respondents 5 and 6 filed substantial documents and submitted that the entire land, measuring an extent of 3.85 acres, i.e. an extent of 2.03 acres in S.No.153/2 and an extent of 1.82 acres in S.No.153/3, in Ramapuram Village, Maduravoyal Taluk, were acquired by the State Government even in the year 1947.
7. The Notification issued under Section 6 of the Land Acquisition Act, which was published in the Gazette, dated 23.09.1947, is produced before this Court to show that an extent of about 13.59 acres, including the subject property, measuring an extent of 3.85 acres in S.Nos.153/2 and 153/3, were acquired for the purpose of constructing an Industrial Institute and an Orphanage by the 5th Respondent.



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8. The Respondents have also produced before this Court a copy of the award dated 29.12.1947 passed by the Land Acquisition Officer in Award No.3 of 1947. Compensation had been fixed for the entire land, including the subject property, measuring an extent 3.85 acres of land, in S.Nos.153/2 and 153/3. Though the Petitioner is shown as the owner of one of the items, the compensation amount was deposited into the Court. Court, finding that the Petitioner, which is a Trust, is not entitled to alienate the property.
9. Even though this Court is not inclined to go into the minute details of the land acquisition proceedings, from the records, it is evident that the subject property was acquired long back in the year 1947 by issuing declaration under Section 6 of the Land Acquisition Act, 1894. The award itself was passed on 29.12.1947, fixing compensation for every parcel of land. It is surprised to note that the Petitioner, who claims title to the subject property, is unable to lay hands to the proceedings. Suppression of entire land acquisition proceedings even after knowing the award passed long back is taken note of by this Court and this would speak volumes about the conduct of the Petitioner in approaching this Court after this length of time. The Petitioner is a registered Society supposed to be administered by elected representatives from 2002. Earlier the property was owned by the Arch Diocese of Madras and hence, the Petitioner cannot assert what had happened about 75 years later. When land acquisition proceedings were not



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challenged by the erstwhile owner, the Petitioner, who came into the picture 55 years back, has no locus standi to challenge acquisition as owner.

10.Be that as it may. The Respondents have filed a typed set, containing the planning permission, which was originally obtained by the 5th Respondent. The learned counsel for the 6th Respondent produced before this Court a copy of the construction agreement the 5th Respondent had entered into with the 6th Respondent. It is to be noted that the planning permission was obtained even in the year 2019.

11.When a notice dated 28.04.2022 was issued by the Corporation to the 6th Respondent, calling upon them to produce the approved plan, the 6th Respondent informed the Greater Chennai Corporation about the planning permission obtained by the 5th Respondent by proceedings dated 07.08.2019 in GO.No.118 Tamil Nadu Housing and Urban Development Department. However, in view of the intervention of the Project by CMRL, it appears that a revised plan is submitted and is pending for consideration due to minor changes by shifting OSR on account of CMRL Project.

12.The learned counsel for the Petitioner relied upon an order of the learned Single Judge of this Court, dated 14.09.2023, made in WP.No.22810 of 2019, filed by one M.Karunakaran for issuance of Writ of Mandamus to direct the Respondents/the 3rd Respondent therein, namely, the District Collector, Tiruvallur, to forfeit the property in S.Nos.153/1to4 and 158 on the ground



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that the said properties, which were acquired for the 5th Respondent herein, were not utilised for the purpose for which it was acquired. Since the property is being utilised for a commercial building, the Petitioner therein wanted the Official Respondents to resume the property. The said Writ Petition was disposed by the learned Single Judge of this Court in the following lines:-

“19. In view of the facts and circumstances, the 2nd Respondent Commissioner of Land Administration, Ezhilagam, Chepauk, Chennai 600005 is directed to conduct an enquiry by affording opportunity to all the parties concerned and pass appropriate orders on merits and in accordance with law. If any illegality, irregularity, violations of law are noticed, then all further actions are directed to be initiated in the manner known to law. The second Respondent/ Commissioner of Land Administration, Ezhilagam, Chepauk, Chennai 600005 is directed to complete the above said exercise within a period of twelve weeks from the date of receipt of a copy of this order.”

13. Even though this Court is not inclined to go into the merits of the contentions raised in the said Writ Petition and the directions by the order dated 14.09.2023 passed by the learned Single Judge of this Court, we are able to see that the said Writ Petition itself clearly shows the falsity of the case of the Petitioner herein ignoring acquisition. When the Petitioner herein has come before this Court claiming title to the property, suppressing the land acquisition proceedings, this Court is unable to find any substance in the arguments relying upon the said order passed by the learned Single Judge of this Court in the said Writ Petition. Therefore, the logical inference that could be drawn from the sequence of admitted facts and events is that the Petitioner has approached this Court with unclean hands, suppressing material facts



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without bona fides. The Petitioner herein has no locus standi.

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14.The object behind this litigation is apparent. The Petitioner has come before this Court with an ulterior motive. It is to be noted that the Petitioner has filed a civil suit in OS.No.383 of 2019 for bare injunction even though the Petitioner is not in possession of the property. When the Petitioner is not in possession as could be seen from the records and documents, the Petitioner has filed a vexatious suit by paying a court fee of Rs.30/-, valuing the suit at Rs.1,000/-.

15.The learned counsel for the Petitioner submitted before this Court that the said suit for bare injunction is pending and that the contesting Respondents have not filed a suit for declaration of their title as if the suit filed by the Petitioner would show a bona fide dispute with regard to title. The subject property is in prime locality within the jurisdiction of Corporation of Chennai. The value of the subject property would be substantial. The Petitioner has only filed a suit for bare injunction without disclosing the land acquisition proceedings that was completed in 1947. This vexatious suit is kept pending from 2019. The Petitioner has not impleaded any of the Government Officials as the Defendants except the 5th Respondent. Not even the 6th Respondent is impleaded as a party, though he has now taken possession of the property for the purpose of putting up a construction under the joint development agreement. Having regard to the facts narrated above, this Court finds no



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merits in this Writ Petition.

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16.As pointed out earlier, the Petitioner is not the owner as on date by virtue of the land acquisition proceedings, which was completed in 1947. The learned counsel for the Petitioner though submitted that compensation was not disbursed to the Petitioner, she admits that it was deposited into the Court. When compensation is fixed by passing an award by the Land Acquisition Officer, the Land Acquisition Officer is expected to tender the amount if there is no dispute with regard to title. In case for any reason the Land Acquisition Officer is unable to disburse the compensation amount, the amount has to be deposited into the Court so that the aggrieved person can seek a reference under Section 30 of the Act for apportionment of the compensation or for claiming disbursement of the entire amount. All these could have been done long back. The Petitioner claims title under the erstwhile Diocese which was the owner when acquisition was initiated. It is only the erstwhile owner who was entitled to compensation. The Petitioner's contention that he was not aware of the land acquisition proceedings cannot be countenanced as the land vested with the Government in 1947. The Petitioner, who is a stranger, is making a stale claim after this length of time. This would only show that the litigation is with ulterior motive without any bona fides. This Court does not find any merits in this Writ Petition.

17.In the course of proceedings, the learned counsel for the Petitioner relied



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upon a communication dated 09.12.2019 issued by the 4th Respondent, the Tahsildar, Maduravoil Taluk, by name, T.Chandrasekaran. By this communication, the said Tahsildar has recommended for cancellation of patta which is in the name of the 5th Respondent and to issue patta in favour of the Petitioner. The 4th Respondent Tahsildar has not understood the scope of acquisition proceedings, which culminated in passing award even in the year 1947. The said Tahsildar, while conducting enquiry for modification of the records under the Patta Pass Book Act, has to trace title to the property from the Ryotwari settlement. When a land is acquired by the Government for the benefit of Trust, the property vests with the Government and thereafter, transferred to the Trust or Company for whom acquisition was initiated. In this case, the 4th Respondent Tahsildar has come to the conclusion as if the name of the 5th Respondent is wrongly included in the revenue records during UDR in 1984. The Tahsildar quite interestingly referring to the land acquisition proceedings has observed that the 5th Respondent Trust has not produced any records to show how the acquisition was completed and the compensation was paid to the land owner. In the absence of sufficient documents from the 5th Respondent, the Tahsildar came to the conclusion that the 5th Respondent had not proved the land acquisition proceedings.

18.A close reading of the documents would only show that the concerned Tahsildar has conducted the enquiry without even issuing notice to the



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Government, who has acquired the land. Till the acquisition is completed, the 5th Respondent has no stake or say and it is only after the acquired property is handed over to the beneficiary by way of transfer, the beneficiary is entitled to hold. The beneficiary is not given the details of acquisition. The Petitioner, whose predecessor had lost its title about 70 years back, has filed this Writ Petition without bona fides.

19.It is now brought to the notice of this Court that the order of recommendation of the concerned Tahsildar was not accepted by the proceedings dated 14.06.2024 by the District Revenue Officer and the DRO has held that there is no error in the UDR Records and therefore, the application submitted by the Petitioner for correction of UDR is not sustainable. The details about the land acquisition proceedings and the contentions of the Petitioner have been considered. In the light of the findings of the DRO, the District Administration, is required to initiate disciplinary proceedings against the concerned Tahsildar for passing such erroneous order or recommendation on the basis of a stale claim made by land grabbers. Since the District Collector concerned is not a party before this Court, the District Collector, Chennai is impleaded as a party in the present proceedings to enquire into this and take appropriate action against the concerned Tahsildar.

20.With the above observations and directions, this Writ Petition is dismissed.

No costs. Consequently, the connected MP is closed.



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(S.S.S.R.J.) & (N.S.J.)
15.07.2024

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Neutral Citation: Yes/No
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To

1. The Member Secretary, Chennai Metropolitan Development Authority
Chennai-8
2. The Commissioner, Greater Chennai Corporation, Chennai-3
3. The Regional Deputy Commissioner (South),
Greater Chennai Corporation, Chennai-20
4. The Tahsildar, Maduravoil, Chennai



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and
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