



W.A.No.1997 of 2019

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2024

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

W.A.No.1997 of 2019

The Madras Race Club
Rep. by its Secretary
Guindy, Chennai 600 032.

.. Appellant

Vs.

1. The Commissioner of Land Administration
Government of Tamil Nadu
Chepauk, Chennai 600 005.
2. The Collector of Nilgiris
Nilgiris District
Udhagamandalam 643 001.
3. The Revenue Divisional Officer
Udhagamandalam.
4. The Tahsildar
Taluk Office, Udhagamandalam.
5. Ministry of Health and Family Welfare
Rep. by its Secretary
Union of India, New Delhi.
6. Government of Tamil Nadu
Rep. by its Secretary
Health Department
Fort St. George, Chennai.

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7. Ministry of Civil Aviation
Rep. by its Secretary
Government of India, New Delhi.

8. J.Mathan
9. H.Sekar
10. B. Ravichandran
11. A. Kumar

[R5 & R6 impleaded vide order dated
04.10.2019 in C.M.P.Nos.13513 and 13514 of 2019
in W.A.No.1997 of 2019]

[R7 impleaded vide order dated 15.10.2019
in W.A.No.1997 of 2019]

[R8 to R11 impleaded vide order dated 21.06.2024
in C.M.P.No.19005 of 2019 in
W.A.No.1997 of 2019]

.. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the
order dated 25.06.2019 in W.P.No.33945 of 2018.

For the Appellant : Mr.Vishnumohan

For the Respondents : Mr.P.S.Raman
Advocate General
assisted by Mr.A.Selvendran
Special Government Pleader
for R1 to R4 and R6

Mr.R.Rajesh Vivekanandan
Deputy Solicitor General of India
for R5 and R7



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JUDGMENT

(Delivered by the Hon'ble Mr. Justice S.M.SUBRAMANIAM)

The writ petitioner is the appellant before us. The writ petition was instituted, challenging the show-cause notice issued by the District Collector, Udthagamandalam, in proceedings dated 30.11.2018. Objections were called for by the District Administration by stating that the District Administration has decided to create a parking area for public purposes to an extent of four acres land out of 52.34 4/16 acres, which is leased out to the Madras Race Club to tide over the parking crisis in Ooty Town. In view of the decision taken by the District Administration, a show-cause notice was issued calling for objections from the writ appellant. Instead of submitting objections, the writ petition has been instituted.

2. *Mr.Vishnu Mohan*, learned counsel appearing on behalf of the appellant would contend that the Authorities had made attempts to take possession of the property, which resulted in filing of the writ petition. Since the District Administration interfered with



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the peaceful possession of the appellant Madras Race Club, the appellant was constrained to move the writ petition. The learned Single Judge dismissed the writ petition. Thus, the present writ appeal came to be instituted.

3. *Mr.Vishnu Mohan*, learned counsel would submit that already two acres of the land has been handedover to the District Administration for providing car parking area to the public at large. In respect of the balance two acres, they are prepared to consider the same by ascertaining suitable location in the leased out Government property measuring 52.34 4/16 acres.

4. No writ against a show-cause notice is entertainable in a routine manner. A writ against a show-cause notice can be entertained only if such notice has been issued by an incompetent Authority, having no jurisdiction or tainted with allegations of *malafides*. In the present case, the District Administration has taken a policy decision to provide more parking area for public purposes



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since huge traffic congestion was identified in Ooty Town. Based on the decision, show-cause notice was issued. Thus, the show-cause notice was issued only in the interest of public and cannot be termed as perverse or infirm.

5. The learned Single Judge has elaborately considered the issues. The fact remains in the year 1997, the Government of Tamil Nadu sanctioned lease of 54.74 4/16 acres of land and buildings thereon, situated in R.S.Nos.1993, 1994, 1996 and 2003 at Ooty Town, Nilgiris District, to the Madras Race Club for a period of one year. The annual lease rent for the whole of the extent was Rs.2,737/-. The lease was periodically extended and the rent was also enhanced at intervals. The last revision of rent was made in the year 2004, fixing the annual rent of Rs.95,175/-. The last rent paid by the appellant was in July, 2017.

6. *Mr.Vishnu Mohan*, learned counsel for the appellant would contend that thereafter, the District Administration refused to



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receive the rent.

7. The District Collector contended before the Writ Court that the appellant is liable to pay the arrears of lease rent to the tune of Rs.642,93,25,287/- as on 2018. *Mr.P.S.Raman*, learned Advocate General would contend that the arrears of lease rent is about Rs.822,63,04,080/- (without interest) as on 30.06.2023.

8. It is not in dispute between the parties that the lease period expired. The lease was not renewed. Thus, the appellant is an unauthorized occupant of the public land. Lands in hilly areas are valuable and scarce. Thus, the Government cannot afford to lease out larger extent of public property for conducting race or to run a Club for recreational activities by few members, who belong to the elite class in the society. Such recreational activities cannot be allowed to go on at the cost of teaming millions of poor people of our great Nation. Valuable lands situate in Ooty Town, hilly area, are to be protected. The State, is duty bound to protect such



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valuable lands and utilize the same for public purposes.

9. The Writ Court has elaborately considered the issues and the grounds raised by the appellant herein. The Writ Court held that the appellant is a seasoned litigant and filed the writ petition challenging the show-cause notice with a fond hope that they can get an *ex parte* interim relief, projecting fake and illusory reasons or later, even if the Court holds against them, they can get an observation from the Court that the Authority who issued the show-cause notice should continue the process and decide the matter without being influenced by the orders of this Court.

10. The learned Single Judge observed that the delay tactics adopted by the appellant to continue in possession without renewal of lease is condemnable. Further, it is observed that if a person is unsuccessful in challenging the show-cause notice, after canvassing the merit of his side, in a higher forum, he deemed to have exhausted his right to re-canvass the same before the Authority



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11. The Writ Court accordingly granted permission to the District Administration to proceed with the proposal for providing car parking for public purposes without offending the ecology and the environment. Though the writ order was passed on 25.06.2019, the writ appellant is successful in increasing the longevity of the litigation for a period of about five years.

12. The appellant has not established any right to occupy the public property. The arrears of lease rent have not been settled by the appellant to the Government. The lease period expired and admittedly not renewed. Therefore, for all purposes, the appellant Madras Race Club is an unauthorized occupant and the Government is duty bound to initiate all appropriate actions to resume the Government land and to recover the arrears of lease rent due to the Government.



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13. The actions of the Government in this nature of cases are measured in the public domain. There cannot be any differential treatment between elite and poor while dealing with public properties. The encroachments and unauthorized occupations of such elite people are either unnoticed or the Government is failing in its duties to initiate appropriate action. It is the Constitutional mandate that the State act in the interest of public by resuming unlawful or illegal occupation of Government lands. The Authorities are expected to act swiftly and in consonance with law.

14. Any lapse negligence and/or dereliction of duty on the part of the competent Authorities are to be viewed seriously. If no actions are taken, disciplinary proceedings are to be initiated as against all such Officials, who are all accountable and answerable to recover the Government dues and resume the public property by following the due process. No doubt, numerous litigations and longevity of such litigations would have prevented the Authorities,



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but they are expected to act swiftly and initiate action to ensure that the public properties are protected and the arrears of lease rent are recovered by following the due process.

15. In view of the fact that the writ petition has been instituted challenging the show-cause notice and the Writ Court has considered the scope of entertainability of the writ petition as well the merits involved, we are not inclined to interfere with the order impugned.

16. Accordingly, the writ order is confirmed and the present writ appeal stands dismissed. There shall be no order as to costs. Consequently, C.M.P.Nos.13513 and 13514 of 2019 are closed.

(S.M.S., J.)

(C.K., J.)

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Neutral Citation : Yes/No

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S.M.SUBRAMANIAM, J.

AND

C.KUMARAPPAN, J.

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