



CrI.R.C.No.1820 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **06-12-2024**

CORAM

THE HONOURABLE MR JUSTICE SUNDER MOHAN

CRL RC. 1820 of 2024

and

CrI.M.P.No.15009 of 2024

C.H.S.Gopi

..Revision Petitioner/1st respondent

Vs.

1. Tamil Nadu Vanniyakula Kshatriya

Public Charitable Trusts & Endowments Board,

Rep. by its Chief Administrative Officer,

1/1(1), Mayor Ramanathan Road (East),

Egmore, Chennai - 600 008.

...1st Respondent/Complainant

2. State represented by

The Inspector of Police,

H-8, Thiruvottiyur Police Station,

Thiruvottiyur,

Chennai – 600 019.

...2nd Respondent



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Prayer: Criminal Revision filed under Section 438 r/w Section 442 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 to call for the records in Crl.M.P.No.1751 of 2023 on the file of the learned Judicial Magistrate, Thiruvottiyur and set aside the same.

For Petitioner : Mr.P.H.Arvinth Pandian,
Senior Counsel
for Mr.CV.Shailandhran

For Respondents : Mr.S.Ananthanarayanan
Senior Counsel [For R1]
for Mr.M.Gnanasekar

Mr.S.Udaya Kumar
Government Advocate (Crl. Side)
[For R2]

ORDER

The revision challenges the order passed by the learned Judicial Magistrate, Thiruvottiyur, under Section 52(1) of the Tamil Nadu Vanniyakula Kshatriya Public Charitable Trusts and Endowments (Protection and Maintenance) Act 2018, directing the petitioner to vacate and hand over the possession of the property measuring 1092 sq.mt., situated in TS.No.50, Block No.21, Ward 27H, Thiruvottiyur, within a period of 15 days to the first respondent/Tamil Nadu Vanniyakula Kshatriya Public Charitable Trusts and Endowments Board.



2. The first respondent Board was established by the Tamil Nadu Vanniyakula Kshatriya Public Charitable Trust and Endowments (Protection and Maintenance) Act, 2018, (hereinafter called the 'Act'). The above Act was enacted to protect and maintain the Public Charitable Trusts and Endowments, which were created and being administered by the persons or organizations of Vanniyakula Kshatriya Community across the State of Tamil Nadu.

3. Claiming that the property is maintained by one of the Trusts, which has been registered with the first respondent Board; and that the petitioner had encroached upon the said land, the first respondent filed a petition under Section 52(1) of the Act.

4. The learned Judicial Magistrate, Thiruvottiyur, held that the first respondent is entitled to an order of eviction under Section 52(1) of the Act and directed the petitioner to vacate and hand over the possession to the first respondent within fifteen days. The revision challenges the said order.

5. Heard Mr.P.H.Arvinth Pandian, the learned Senior Counsel for the



petitioner, as well as Mr.S.Ananthanarayanan, learned Senior Counsel for the first respondent and Mr.S.Udaya Kumar, the learned Government Advocate (Crl.Side) for the second respondent.

6(a). Mr.P.H.Arvinth Pandian, the learned Senior Counsel for the petitioner submitted that the learned Judicial Magistrate, ought not to have invoked the provisions of the Act to evict the petitioner since the property in question is not gazetted in terms of Section 5 of the Act; and that the Public Charitable Trust, who claims rights over the property is not registered with the first respondent.

(b). The learned Senior Counsel would further submit that the petitioner is the lawful owner of the property and he is in possession of all the documents and hence prayed to set aside the order passed by the learned Judicial Magistrate, Thiruvottiyur.

7. Mr.S.Ananthanarayanan, learned Senior Counsel for the first respondent/Tamil Nadu Vanniyakula Kshatriya Public Charitable Trusts and Endowments Board, would submit that the Trust for whom the first



respondent filed this petition before the learned Magistrate is in possession of the property from 1874; that the petitioner's father was only a lessee in the said property and the petitioner claimed ownership based on a Settlement Deed executed by his father; that all the documents of title have been cancelled since the Trust is the lawful owner; and that the property is registered with the Board and could not be gazetted for some reasons and therefore, there is no infirmity in the order passed by the learned Judicial Magistrate, Thiruvottiyur; hence he prayed for dismissal of this revision.

8. The only point involved in this revision is whether the learned Judicial Magistrate, Thiruvottiyur, was empowered to pass the impugned order under the Act. As stated earlier, the Act was enacted to protect the properties of the Trusts and Endowments that are administered by persons or organizations of the Vanniyakula Kshtraiya Community across the State of Tamil Nadu. The Act therefore has provided for certain special Provisions by which the Chief Administrative Officer can seek eviction by approaching the learned Magistrate instead of filing a Civil Suit. Section 51(1) of the Act empowers the Chief Administrative Officer of the Board to issue a notice to any person if he receives any complaint or, on his own motion comes to know



that the said person had encroached upon the property that is gazetted in terms of Section 5 of the Act. If the encroacher fails to vacate in terms of the notice, then the Chief Administrative Officer can apply under Section 52 (2) of the Act to the learned Magistrate for a direction to evict the encroacher.

9. To invoke the said provisions, certain conditions are provided in the Act. One of the conditions is that the property for which the provisions of the Act are invoked must be gazetted in terms of Section 5 of the Act. Section 5 of the Act reads as follows :

“5. The Board shall examine the report submitted to it under sub-section(2) of section 4 and publish in the Tamil Nadu Government Gazette, a list of properties of each trust and endowment in the State.”

10. Admittedly the property in question has not been gazetted in terms of Section 5 of the Act, though, according to the learned Senior Counsel for the first respondent, they made an attempt to publish the said property in the gazette it could not be done for certain reasons. Since the property has not been gazetted, this Court is of the view that the Chief Administrative Officer, Tamil Nadu Vanniyakula Kshatriya Public Charitable Trusts and Endowments



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Board, has no power to invoke the Provisions of Chapter IX of the Act, for removal of encroachment. Hence, the impugned order is liable to be set aside and hence set aside.

11. It is open to both the parties to establish their claim for title over the disputed property in the appropriate forum in accordance with law. Accordingly, this Criminal Revision Case stands Allowed. Consequently, the connected Miscellaneous Petition is closed.

06.12.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non Speaking Order
dk

Copy to:

1.The Chief Administrative Officer,



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The Tamil Nadu Vanniyakula Kshatriya,
Public Charitable Trusts & Endowments Board,
1/1 (1), Mayor Ramanathan Road (East),
Egmore, Chennai - 600 008.

2. The Inspector of Police,
H-8, Thiruvottiyur Police Station,
Thiruvottiyur,
Chennai – 600 019.

3. The Public Prosecutor,
High Court of Madras,
Chennai – 600 104.

SUNDER MOHAN, J.

dk



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