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W.P.No.34546 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2024

Coram

THE HONOURABLE MR.JUSTICE **M.SUNDAR**

and

THE HONOURABLE MR.JUSTICE **K.RAJASEKAR**

W.P.No.34546 of 2024

& W.M.P.No.37451 of 2024

in W.P.No.34546 of 2024

D.Thavamani

S/o.Dhanabal

... Petitioner

VS

1. The Director of Rural Development and Panchayat Raj
Directorate of Rural Development and Panchayat Raj
Panagal Building, Chennai – 600 015

2. The District Collector
District Collectorate Complex
Salem District

3. The Sub-Collector
Mettur Sub Division
Salem District

4. The Tahsildar



W.P.No.34546 of 2024

WEB COPY

Mettur Taluk
Salem District

5. The Block Development Officer (VP)
Nangavalli Block
Salem District

6. Kamala

7. Mayili

8. Jeganathan

9. Jayavel

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing respondents 1 to 5 to remove the encroachments and forbearing the respondents 1 to 5 from converting the 'Mandhaiveli Poramboke' land in Survey No.321/6, Pooralkottai Village, Mettur Taluk, Salem District to any other purpose, based on the petitioner's representation dated 23.10.2024.

For Petitioner : Mr.T.M.Mano
for Mr.C.Narendren

For Respondents : Mr.T.K.Saravanan
Government Advocate for R1 to R5



WEB COPY



W.P.No.34546 of 2024



W.P.No.34546 of 2024

ORDER

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

Subject matter of captioned writ petition is 'land comprised in S.No.321/6, 15.Gonur Village, Mettur Taluk, Salem District' [hereinafter 'said land' for the sake of convenience].

2. Mr.T.M.Mano, learned counsel representing the counsel on record for writ petitioner adverted to earlier proceedings made by this Court in the listing on 20.11.2024, which reads as follows:

***'W.P. No.34546 of 2024
and W.M.P. No.37451 of 2024***

M.SUNDAR,J.,

and

K.RAJASEKAR, J.,

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

Mr.T.M.Mano, learned counsel representing the counsel on record for writ petitioner is before us. Learned counsel submits that there is an attempt to change the classification of 'Meikal Poramboke' (grazing land) and put up a construction there.



W.P.No.34546 of 2024

2. *For the present, issue notice to official respondents.*

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Mr.T.K.Saravanan, learned Government Advocate accepts notice for R1 to R5 and requests for a short accommodation to get instructions and revert to this Court.

3. *List tomorrow in the Admission Board i.e., Motion List under the cause list caption 'NOTICE REGARDING ADMISSION'. Registry to show the name of State counsel in the next listing.*

4. *List on 21.11.2024.'*

(M.S.J.) (K.R.S.J.)
20.11.2024'

3. Learned counsel submitted that an attempt is being made to convert said land into a site for construction of a community hall. As already captured in afore-referred earlier proceedings dated 20.11.2024, specific case of the learned counsel for writ petitioner is that said land is a grazing ground. In support of his contention, learned counsel adverted to photocopy of the 'A' Register wherein said land has been described as 'மந்தை வெளி'.



W.P.No.34546 of 2024

WEB COPY

4.It is also the case of the writ petitioner that a grazing ground, which is a Government Poramboke, vests in the village Panchayat and power of the village Panchayat to regulate the use of such grazing ground (building a community hall in the case on hand) is circumscribed by Section 134 of 'the Tamil Nadu Panchayats Act, 1994 (Tamil Nadu Act 21 of 1994)' [hereinafter 'TN Panchayats Act' for the sake of brevity] and that it is circumscribed by saying that it should be in accordance with the legal prescription to regulate use of such lands. The legal prescription is by way of a piece of subordinate legislation styled 'the Tamil Nadu Panchayats (Restriction and Control to Regulate the Use of Porambokes in Ryotwari Tracts) Rules, 2000' [hereinafter 'said Rules' for the sake of brevity]. This subordinate legislation has been made by State in exercise of its Rule making powers under Section 242 of TN Panchayats Act. The most relevant rules qua the case on hand are Rules 3 and 4 of said Rules, which provide for Regulation and Procedure. To



W.P.No.34546 of 2024

be noted, Rules 3 and 4 of said Rules read as follows:

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"3. Regulation of Poramboke land.- No Poramboke at the disposal of the Government, the use of which is regulated by the Village Panchayat, shall be used for any purpose other than that for which it was originally intended except with the prior approval of the Collector and such use shall be subject to such conditions and restrictions as may be imposed by the Collector.

4. Procedure for alternate use of Poramboke lands.- (1) If a Village Panchayat considers that a Poramboke mentioned in sub-section (2) of Section 134 of the Act is no longer required for the purpose for which it was originally intended and that it may be used for any other specified public purpose, it shall cause a notice to be published in the Village Panchayat in which the land is situated, specifying its survey number and the purpose for which it is required and inviting objections to the proposal within a specified date which shall not be less than thirty days from the date of publication of the notice. The notice shall be published by beat of tom-tom and by displaying it in some conspicuous part of the building in which the office of the Village Panchayat is located.'

5. In response to the aforesaid contention, learned State counsel



W.P.No.34546 of 2024

WEB COPY

appearing for the official respondents drew our attention to an order

dated 02.02.2022 made in W.P.No.19286 of 2021 [***Raja Vs.The***

Secretary, Revenue Department, Secretariat, Chennai-9 and Others]

and submitted that such conversion of grazing land can be done with the

approval of a Court. A careful perusal of order of another Hon'ble

Division Bench of this Court makes it clear that no principle to the effect

that Meikaal poramboke i.e., grazing land can be converted with the

permission of Court has been laid down. In ***Raja's*** case, on facts and

circumstances thereat, the Court has directed that conversion shall be

only after prior approval of the Court. Therefore, 02.02.2022 order in

Raja's case does not come to the aid of the State counsel. The second

point which learned State counsel made is that Government order being

G.O.Ms.No.75 dated 28.05.2007 has been issued with regard to

conversion of grazing land. A careful perusal of this Government order

brings to light that it only supplements the said Rules and does not

supplant the same. In any event, an executive fiat cannot supplant a



W.P.No.34546 of 2024

piece of subordinate legislation.

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6. Be that as it may, we are informed that said Rules are operating and neither the Rules nor any provision qua said Rules have been struck down by any Court. In these circumstances, learned counsel for writ petitioner very fairly submitted that the writ petitioner has sent a representation dated 23.10.2024 and that can be treated as objections vide Rules 3 and 4 of said Rules.

7. Learned counsel for writ petitioner very fairly submitted that it will suffice if these objections are considered and the procedure laid down in said Rules is followed. We make no observation about the outcome. We make it clear that objections shall be considered on its own merits and in accordance with law, more particularly in accordance with said Rules and conversion of grazing lands, if at all and if that so, shall be by following said Rules.



W.P.No.34546 of 2024

WEB COPY

8. In the case on hand, we are taking the aforesaid view owing to the fair stand taken by learned counsel for writ petitioner and therefore, this order will not serve as a precedent in all matters pertaining to grazing grounds and regulation / conversion of the same for other use.

9. Be that as it may, as regards the private respondents viz., R6 to R9, we deem it appropriate to write that all the rights and contentions of the private respondents are preserved when the objections dated 23.10.2024 is considered and when said Rules are followed. As the rights and contentions of the private respondents are protected/preserved, the main writ petition was taken up with the consent of both sides.

10. We dispose of the main writ petition recording the stated position of the learned counsel for writ petitioner i.e., that it will suffice if the representation of the writ petitioner dated 23.10.2024 is considered as objections qua Rules 3 and 4 of said Rules and further directing the



W.P.No.34546 of 2024

WEB COPY

respondents to consider the same in accordance with law on their own merits and take a decision in accordance with the legal prescription provided vide said Rules.

11. Captioned writ petition disposed of in aforesaid manner. In the light of the order which we have made in the main writ petition, captioned WMP is also disposed of as closed. There shall be no order as to costs.

[M.S., J] [K.R.S., J]
03.12.2024

Index: Yes/No
Neutral Citation: Yes/No
Speaking order/Non-speaking order
gpa



W.P.No.34546 of 2024

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WEB COPY



W.P.No.34546 of 2024

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and
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W.P.No.34546 of 2024

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