



WEB COPY **BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 23.09.2024

CORAM:

**THE HONOURABLE MR.JUSTICE P.VELMURUGAN
AND
THE HON'BLE MR JUSTICE K.K.RAMAKRISHNAN**

**W.A(MD)No.1342 of 2019
and
CM.P(MD)No.11289 of 2019**

1.The Executive Officer,
Thisaiyanvilai Special Grade Town Panchayat,
Thisaiyanvilai,
Tirunelveli District.

2.The Special Officer,
Assistant Director for Special Grade Town Panchayat,
Thisaiyanvilai Special Grade Town panchayat (in-charge),
Assistant Director Office,
NGO Colony,
Tirunelveli.

... Appellants/ Respondents

Vs.

P.Subramanian

... Respondent /Writ Petitioner

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act praying this Court to set aside the order passed by this Court in W.P(MD)No.7205 of 2019 dated 29.04.2019.

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For Appellants : Mr.Aayiram K Selvakumar

For Respondent : Mr.C.Mailvahana Rajendran

JUDGMENT

(Order of the Court was made by **P.VELMURUGAN.,J**)

This Writ Appeal is directed against the order passed by this Court in W.P(MD)No.7205 of 2019 dated 29.04.2019.

2. The respondent filed a writ petition before the writ Court to issue a writ of mandamus directing the appellants herein to pass an appropriate order to fix the lease amount and permit the respondent herein to put up a temporary structure in the allotted place.

3. Based on the resolution passed by the first respondent, by considering the representation made by the respondent dated 09.03.2019, the said writ petition was allowed by order dated 29.04.2019 by the writ Court. Aggrieved over the same, the respondents therein filed the present intra Court writ appeal.



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4. In compliance of the order of this Court, the representation of the respondent was placed before the Town Panchayat Council meeting conducted on 14.02.2018 and it was resolved to take appropriate steps by following the procedure, after obtaining the ground rent rate through Public Works Department and then to take further steps towards the allocation of the vacant land to the respondent herein. Based on that resolution, a proposal was sent to the Public Works Department (Building and Maintenance) on 26.09.2018, for getting opinion for letting out the disputed vacant land for lease. But the Executive Engineer, Public Works Department, vide his communication dated 25.01.2019, declined to grant permission for letting out the vacant place for lease purpose since it is classified as a Government Poramboke land. The same was communicated to the respondent that the vacant land in question is lying before the Agriculture Department 'go-down' and it is also a Government Poramboke land, permission is declined. They also expressed their inability to give the lease of the land situated in S.No.17/1B/2A/1C in view of the increased thick population and public usage of the said place, viz., parking of car and taxi. There are a lot of traffic problem arising in the recent days and it causes several inconvenience to the public. Further, the agricultural department also requested



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the Tahsildar, Radhapuram to re-survey the land allocated for the usage of their Department and earmark the land so as to protect the land from any future encroachment. The learned Single Judge failed to consider the submissions made by the appellants as well as the subsequent development while passing the order. Therefore, the present appeal is filed.

5. The learned counsel for the respondent would submit that despite the second appellant passed the resolution as early as on 14.02.2018, by permitting the respondent to put up a temporary superstructure in the land measuring 16x16 sq.ft., in S.No.17/1B/1A/2C, Ward No.9, Thisayanvilai Special Grade Town Panchayat as per the resolution No.123, the appellants refused to grant permission to put up the superstructure and they did not fix any rent. Hence, the respondent approached this Court. Further, he would submit that there are similarly placed persons, who have been allowed to put up the superstructure in the very same Survey number by fixing the ground rent and also the same has been collected from them. Though the respondent also put up the superstructure, however, the same was demolished. Therefore, the respondent approached this Court on earlier occasions. As per the order of the Court, the second appellant



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passed the resolution and they have not acted upon the resolution passed by them.

Hence, the writ Court rightly appreciated the submissions and contentions of both the appellants as well as the respondent, and also considering the counter affidavit filed by the appellants, passed an order by allowing the writ petition on its own merits.

6. It is admitted that the subject land is classified as a Government Poramboke and also based on the order of this Court in earlier round of litigations, in which this Court directed the appellants to allot the disputed land for put up a temporary superstructure and fix the rent, based on which the second appellant also passed the resolution on 14.02.2018. It was resolved to take appropriate steps towards the allocation of vacant land to the respondent by following the procedures and after obtaining the ground rent rate from the Public Works Department. Now the main contention of the appellants is that the proposal was forwarded to the Public Works Department (Building and Maintenance) on 26.09.2018. But the Executive Engineer, Public Works Department, had declined to grant permission for letting out the vacant place for lease purpose since it is classified as Government Poramboke land. Taking note of the same, in the earlier



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round of litigations, this Court has directed the appellants to fix the lease rent and permit the respondent to put up the temporary superstructure in the disputed vacant land.

7. Heard the learned counsel appearing on both side and perused the materials placed before this Court.

8. The learned counsel for the appellants admitted that there are a vast land and more than 160 persons have occupied and they were allowed to put up a temporary superstructure and the authorities also fixed the rent and has been collecting the same from the tenants. Therefore, the contention of the appellants that since the land has been classified as a Government Poramboke, the Executive Engineer, Public Works Department, has refused to grant permission for letting out the vacant land and also fixing the rent, is not acceptable, since the similarly placed persons were getting the said benefit. Therefore, the reasons stated for not considering the representation of the respondent dated 09.03.2019 is not acceptable and therefore, this Court is of the view that the writ Court has rightly passed the order by allowing the writ petition and there is no merit in this appeal



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and it is liable to be dismissed.

9. In the result, the Writ Appeal is dismissed. No Costs.

Consequently, connected miscellaneous petition is dismissed.

[P.V.,J.] [K.K.R.K.,J.]
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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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P.VELMURUGAN, J.
and
K.K.RAMAKRISHNAN, J.

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