



W.P.(MD) No.21435 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.09.2024

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THE HONOURABLE Ms.JUSTICE P.T.ASHA

W.P.(MD) No.21435 of 2024

P.Selvaraj

... Petitioner

/vs./

- 1.The District Collector,
O/o. the District Collectorate,
Dindigul District.
- 2.The Assistant Director (Panchayats),
Assistant Director Panchayats Office,
Dindigul District.
- 3.The Block Development Officer,
Nilakottai Block Development Office,
Nilakkottai Taluk,
Dindigul District.
- 4.The Tahsildar,
Nilakottai Taluk,
Dindigul District.
- 5.Gullalagundu Panchayat,
rep by its President,
Gullalagundu Taluk,



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Nilakkottai Taluk,
Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 4th respondent in his proceedings in Na.Ka.No. 2708/2020/AA5 dated 09.08.2024 as illegal and to direct the 4th respondent to find out if the site on which the water is to be located comes within the 35.90 of Church land by surveying the land by surveying the land 35.90 cents mentioned the schedule of property of the Document No.2588 of 1968 dated on 23.08.1968 on the file of the Nilakottai Sub-Registrar within the time fixed by this Court.

For Petitioner : Mr.V.Santhakumaresan

For R1, R2 & R4 : Mr.B.Saravanan
Additional Government Pleader

For R3 : Mr.G.Surya Ananth
Additional Government Pleader

ORDER

The Pastorate seeks to challenge the installation of water tank for public purpose.



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2. The petitioner claiming to be a Secretary of Pastorate Committee at Nilakkottai Pastorate has filed this writ petition seeking to challenge the order passed by the fourth respondent in his proceedings bearing Na.Ka.No. 2708/2020/Aa5 dated 09.08.2024 as illegal and to direct the fourth respondent to identify if the site on which the water tank is located comes within the 35.90 cents of Church land by surveying the said extent as per the document dated 23.08.1968 registered as Doc.No.2588 of 1968 on the file of the Sub Registrar, Nilakottai.

3. The petitioner would submit that one Missionary Sandlar had established the Church known as Sandalarpuram Church and a school known as CSI Primary School in the year 1930 in the petition mentioned land. The same is functioning to date. Meanwhile, the land and the Church was transferred to CSITA by the American Madurai Mission of the United Church Board under transfer deed dated 23.08.1968. The lands have been in the continuous possession of the Church for over a decade. The vacant site is being used as the playground for the School.

4. The petitioner would submit that while things being so, the respondents have proposed to construct an overhead water tank in the land belonging to the



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Church without acquiring the same in the manner known to law claiming that the same is a Natham Poramboke. If the overhead water tank is constructed, it would cause hindrance to the small children.

5. It appears that the CSI Diocesan Council has filed a suit O.S.No.72 of 2024 on the file of the District Munsif Court, Nilakottai for declaration and mandatory injunction restraining the defendants from entering into the suit property and making any construction. Further, the Church has donated lands to an extent of 100 sq.ft., to the Government for constructing the water tank at the south-west corner of the Church, the same has been constructed and the tank is in the usage of the public. However, 40 days prior to the filing of the writ petition, the respondents have forcibly entered into the premises and uprooted the trees and stated that they intent to put up the overhead tank. Therefore, the petitioner had filed W.P.(MD) No.18126 of 2024 before this Court seeking a Mandamus to forebear the respondents from dispossessing the Sandalarpuram Church from the land measuring an extent of 35.90 cents comprised in S.Nos.323/31, 33 and 34 and old S.No.189/Pa at Gullalagundu Village, Sandalarpuram, Nilakkottai Taluk, Dindigul District by constructing the overhead water tank without acquiring the



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land under the provisions of the Right to Fair Tenancy in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

6. The said writ petition was disposed of by an order dated 01.08.2024, wherein this Court had directed that without conducting the survey, the water tank should not be installed and the fourth respondent therein, namely the Tahsildar, Nilakottai Taluk, was directed to conduct the survey on 09.08.2024.

7. The order in the writ petition clearly stated that the petitioner was not required to be served with a notice. Once the survey is conducted, copy of the survey sketch as well as the report would be served on the petitioner and thereafter, the respondents could instal the water tank. The contention of the petitioner is that contrary to the order, no survey was conducted and the fourth respondent had proceeded to instal the water tank and therefore, the present writ petition.

8. The learned Additional Government Pleader appearing for the respondents 1 to 4, on instructions, would submit that as directed by this Court on



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09.08.2024, the Officials had entered into the premises and had conducted the survey. An extent of 0.18.0 ares in S.No.323/31 has been described in the revenue records as Government Poramboke and in the remarks column, it has been stated that there is a square Well, Natham vacant site and pathway.

9. The survey report would show that the School is situate in S.No.323/31, to an extent of 0.00.68 hectares and the Church is located in S.No.323/34, to an extent of 0.00.73 hectares. Therefore, the water tank has been installed in the southern side of the square Well in an extent of 0.00.09 hectares from out of the land measuring an extent of 0.10.00 ares of Government Poramboke in S.No. 323/31. The survey report enclosed the Adangal Extract and the 'A' register and the photographs have also been filed showing that the water tank had been put up and is nearing completion.

10. In the above circumstances, the request to survey the land becomes infructuous, as the respondents have installed the water tank in compliance of the earlier orders of this Court in W.P.(MD) No.18126 of 2024 dated 01.08.2024.



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11. The Writ Petition is therefore dismissed. It is well open to the writ petitioner to file a suit questioning the action. No costs.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No

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P.T.ASHA, J.

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