



W.P.(MD)No.18073 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.11.2024

CORAM

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.(MD)No.18073 of 2016

and

W.M.P(MD)Nos.15967 to 15969 of 2018 and 10215 of 2020

Dr.K.Vijayabaskar

... Petitioner

Vs.

1.The District Collector,
Collector Office,
Madurai.

2.The District Revenue Officer,
Collector Office,
Madurai.

3.The Revenue Divisional Officer,
Collector Office,
Madurai.

4.The Tahsildar,
Vadipatty,
Madurai District.

5.The Executive Officer,
Vadipatty Panchyat,
Vadipatty.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records and quashing the proceedings of the first respondent in Na.Ka.2737/2017/Y-2, dated 08.06.2018 and to allot some other land for the purpose mentioned in the impugned proceedings.

For Petitioner : Mr.S.Manohar

For Respondents : Mr.A.Kannan
Special Government Pleader

ORDER

The writ petition has been filed challenging the order of the first respondent, dated 08.06.2018, converting the land in S.Nos.58/2 and 58/4 to an extent of 0.36.5 hectares and 0.39.0 hectares respectively in Kulakekarankottai Village, Vadipatti Taluk to the fifth respondent for dumping waste.

2. The petitioner purchased 2 acres 4 cents in S.No.58/1B at Kulasekarankottai Village, Vadipatti Taluk under registered sale deed, dated 18.09.2009 and another 2 Acres 4 cents in S.Nos.58/1A and 58/1B in the said village on 18.09.2009. The petitioner mutated the revenue records in his name for the aforesaid lands. While so, the first respondent vide order dated 08.06.2018 transferred lands in S.No.58/2 and 58/4 to an extent of 0.36.5



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hectares and 0.39.0 hectares respectively in Kulakekarankottai Village, Vadipatti Taluk, to the fifth respondent for dumping waste.

3. The petitioner's main grievance against the impugned order, transferring the subject lands to the fifth respondent for dumping waste was that the ingress and egress to his lands were affected by the said transfer and also that his agricultural lands were affected by dumping of waste. The petitioner therefore challenged the impugned order in the above writ petition.

4. The respondents filed a counter stating that the fifth respondent on 09.01.2017, requested for transfer of land to an extent of 036.5 hectares of land in S.No.58/2 and 039.0 hectares of land in S.No.58/4 of Kulasekarankottai Village for constructing building for establishing solid waste management, and compost yard in a total extent of 0.75.5 hectares of land. The District Collector, Madurai called for objections from the villagers through the Thasildar, Vadipatti and since no objections were received, the impugned order was passed. The lands, which were transferred for dumping were originally classified as un-assessed waste poramboke (rock) in revenue records. The respondents stated that the contention of the petitioner that ingress and egress to his lands were affected was untenable because the petitioner had alternative



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pathway adjoining the Odai in S.No.58/3 to reach his lands. The respondents stated that on local enquiry it was found that the petitioner was not carrying on agricultural operations in his lands for over a decade. The respondents submitted that only to stall the formation of solid waste management programme, the petitioner filed the writ petition with vested interest and therefore prayed that writ petition be dismissed.

5. At the time of arguments, the learned counsel for the petitioner submitted that the construction of the solid waste management building affected the petitioner's agricultural lands and therefore, proper direction should be issued to the respondents to protect his agricultural lands. The learned counsel for the petitioner further submitted that the ingress and egress to his lands was obstructed by the construction of the solid waste management building of the respondents.

6. The learned Additional Government Pleader for the respondents on the other hand produced photographs to show that solid waste management building was already completed and was fully operational. The learned Additional Government Pleader therefore submitted that the apprehension of the petitioner that his agricultural lands would be affected was without any basis.



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As far as the dumping yard was concerned, the learned Additional Government Pleader submitted that proper boundary walls was constructed and therefore there was no possibility of any disturbance of any kind to anybody. The learned Additional Government Pleader further submitted that the contention of the petitioner regarding the ingress and egress to his lands was concerned was also untenable as the petitioner had an alternative pathway in S.No.58/3 adjacent to Odai. The learned Additional Government Pleader hence prayed to dismiss the writ petition.

7. I heard both sides and perused the available materials on record.

8. As far as the first contention of the learned counsel for the petitioner that the dumping of wastes affects his agricultural land is concerned, it is seen from the photographs produced by the learned Additional Government Pleader that the dumping yard is fully and properly secured by a compound wall and the petitioner's agricultural lands are reasonably far from the compound wall of the dumping yard. The petitioner has not placed any material to show as to how his lands were affected. However, the respondents' photographs show that the dumping yard is properly compounded and far away from petitioner's land. Therefore, the contention in this regard is unreasonable and unsubstantiated. As



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far as second contention regarding ingress and egress is concerned, the respondents in the counter specifically stated that the petitioner's ingress and egress was not affected as he has alternate pathway through S.No.58/3 adjoining Odai. This statement of the respondents found in the counter, was not denied by the petitioner and therefore, the said objection also cannot be countenanced. As rightly contended by the learned Additional Government Pleader for the respondents, this project is for the welfare of the public and also the lands used for the formation of solid waste management construction is away from the habitation and therefore, the impugned order cannot be faulted. More over, private interest cannot override public interest, more-so, when no damage is established by the petitioner.

9. Hence, I find no merits in the writ petition and the same is dismissed.

No costs. Consequently, connected miscellaneous petitions are closed.

19.11.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
SN



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N.MALA, J.

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