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W.P.(MD) No.1430 of 2024
and
W.M.P.(MD) No.1469 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD) No.1430 of 2024
and
W.M.P.(MD) No.1469 of 2024

Fr.Jayaraj

... Petitioner

-vs-

1.The District Collector
Kanyakumari District

2.The Revenue Divisional Officer
Office of the Revenue Divisional Officer
Nagercoil, Kanyakumari District

3.The Tahsildar
Thovalai Taluk
Nagercoil
Kanyakumari District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue
a writ of mandamus directing the respondents to forthwith remove the lock



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and seal on the main door of entire 42 Acres of patta land bearing Survey Nos. 155/7, 155/5, 143/1, 144/16, 398/1, 396, 400, 408, 150/1, 153/4, 161/5, 147/3, 148/3, 150/6, 156/5, belonging to the petitioner situated in Gnalam Village, Kanyakumari District, as per the representation of the petitioner dated 18.05.2023 and 05.12.2023.

For Petitioner : Mr.T.Gowthaman, Senior Counsel
assisted by Mr.V.Janakiramulu

For Respondents : Mr.P.Thilakkumar
Government Pleader

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

Prayer in this writ petition is to direct the respondents to forthwith remove the lock and seal on the main door of entire 42 Acres of the petitioner's patta lands comprised in Survey Nos.155/7, 155/5, 143/1, 144/16, 398/1, 396, 400, 408, 150/1, 153/4, 161/5, 147/3, 148/3, 150/6 and 156/5 of Gnalam Village, Kanyakumari District, based on his representations dated 18.05.2023 and 05.12.2023.



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2. According to the petitioner, he is serving as Parish Priest in R.C.Magundarae Church, Kerala. He has been rendering assistance to the poor children and poor people. He has purchased 42 Acres of land in Gnalam Village and Arumanallur Village, Kanyakumari District, with an object of establishing and conducting a home for aged and doing social service in the locality. He has also constructed a home for aged, hospital, dispensary and water plant to cater to the needs and necessities. However, due to frequent occurrence of forest fire, it was impossible for him to run the home and therefore, his property remained unused. In such circumstances, based on a complaint made by the Village Administrative Officer, Gnalam Village, alleging that the petitioner is involved in theft of soil from his land as well as the adjacent Government poramboke land, a criminal case in Crime No.359 of 2021 was registered by Boothapandy Police Station, Kanyakumari, for the offence under Section 379 I.P.C.

3. Further, according to the petitioner, he has given lease in favour of five individuals approximately to an extent of 1.50 Acres of land each out of the total extent of 42 Acres for brick kiln business. In fact, these five



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lessees involved in the aforesaid illegal activities, without his knowledge. In such circumstances, the District Collector / first respondent locked and sealed the entire property of 42 Acres instead of the leased portion of 6.20 Acres, denying his right of access to the other properties. Seeking to remove the lock and seal, the petitioner submitted a representation dated 21.08.2023 to the first respondent, however, the same has not been considered sofar. Hence, this writ petition.

4. Learned Government Pleader appearing for the respondents, on instructions, submits that action has been taken under the provisions of the Tamil Nadu Minor Mineral Concession Rules, 1959. Since there is no entrance except the main gate to have ingress and egress to the said property, the main gate itself has been locked and sealed. Hence, it may not be possible for the respondents to permit the petitioner to use the remaining portion of the land as well as the building.

5. Today, the petitioner has filed an undertaking dated 13.03.2024 stating that he will not remove the lock and seal in the disputed portion of 6.20 Acres and he is concerned only in respect of the remaining



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land approximately 35.80 Acres of land. The relevant portion of the undertaking is extracted hereunder:

“5.I submit that I am ready and willing to cordon off the Survey Nos.155/2, 155/4, 152/1, 150/4, 153/2 and 153/5 of Gnam Village, Kanyakumari District, wherein allegation of the operation of illegal brick kilns have been raised, at my own expense. I state that the said Survey Nos.155/2, 155/4, 152/1, 150/4, 153/2 and 153/5 alone are the subject matters of the show cause notice as well as the ultimate lock and seal order.

6.I further undertake not to enter the lands in the said Survey Numbers viz., 155/2, 155/4, 152/1, 150/4, 153/2 and 153/5 of Gnam Village, Kanyakumari District till such time that final orders are ultimately passed in my favour in the appeal proceedings.”

6. The above undertaking of the petitioner shall form part of the records.

7. In terms of the said undertaking, this writ petition is disposed of. It is made clear that this order will not prejudice the rights of the parties



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and it is always open to the respondents to initiate proceedings in accordance with law against the petitioner in respect of the disputed portion of land, if law permits. After putting up fencing, with regard to the subject property, the petitioner can use the gate for having ingress and egress to the undisputed portion of the land. The petitioner shall also give an undertaking to the authority concerned that he will not carry on brick kiln business in the aforesaid land, without any approval from the authority concerned. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] [R.V., J.]
13.03.2024

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

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To:

- 1.The District Collector,
Kanyakumari District.
- 2.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Nagercoil, Kanyakumari District.



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3.The Tahsildar,
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