



W.P.(MD)No.4091 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : **25.04.2025**

Delivered on : **...04.2025**

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)No.4091 of 2024

and

W.M.P.(MD)Nos.3959, 3960 and 17337 of 2024

A.1303 Madurai Mills Co-Operative

Housing Society Ltd.,

Represented by its Liquidator,

O/o. Deputy Registrar (Housing),

Basker Complex,

Chinnachokkikulam, Madurai -2.

... Petitioner

/Vs./

1. The Commissioner of Land Administration,

Chepauk, Chennai -5.

2. The District Collector

Madurai District.

3. The Commissioner

Madurai City Municipal Corporation,

Madurai.



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4. The Thasildar

Thiruparankundram Taluk Office,
Madurai District.

5. Mayandi M

(R5 is impleaded vide Court order dated
02.09.2024 in WMP(MD)No.15210 of 2024) ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for records in impugned order in L.A-V1/6079156/2024 dated 23.01.2024 on the file of the 1st respondent and quash the same as illegal.

For Petitioner : Mr.H.Arumugam
for Mr.S.Kumar

For Respondents : Mr.J.Ravindran
Additional Advocate General
Assisted by Mrs.K.Malathi
Additional Government Advocate
for R1,2&4

: Mrs.S.Devasena,
Standing Counsel for R3

: Mr.M.Mahaboob Fazil for R5

ORDER

The petitioner challenges the order of resumption passed by the first respondent in and by order dated 23.01.2024.



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2. I have heard Mr.H.Arumugam, for Mr.S.Kumar, learned counsel for the petitioner, Mr.J.Ravindran, Additional Advocate General Assisted by Mrs.K.Malathi, Additional Government Advocate for the respondents 1, 2 and 4, Mrs.S.Devasena, learned counsel for the third respondent and Mr.M.Mahaboob Fazil, learned counsel for the fifth respondent.

3. Brief facts of the petitioner is as follows:-

The petitioner is a Society formed by the workers of Madura Coat's Mills. The petitioner Society was registered as early as on 23.06.1938. The Government of Tamil Nadu acquired lands to an extent of 89.46 Acres for the purposes of allotting house sites to the members of the Society. Lay out was also formed after acquisition and the members were allotted various plots. In the said lay out, portions of the lay out were earmarked for establishment of co-operative store, formation of park, road, library, etc. An extent of 3.98 Acres has been left vacant and it has been under the control of the petitioner's Society. On 17.11.1975, the Society was liquidated and the Liquidator was appointed to take over the management of the Society. The present writ petition is filed by the said Liquidator of the said Housing Society.



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4. The learned counsel appearing for the petitioner would submit that the extent of 3.98 Acres, which is resumed under the impugned order was reflected even in the approved lay out as vacant site and all revenue records stand only in the name of the petitioner Society. He would therefore submit that the respondents have no right to order resumption on the ground that the lands are unutilized.

5. The learned counsel would further submit that the entire exercise is motivated, at the instance of the private respondent, who is impleaded as the fifth respondent. The learned counsel would further submit that though the respondents alleged violation of condition assignments, according to the learned counsel for the petitioner, Mr.H.Arumugam, there is no assignment in the first place and the lands were only acquired by the Government for the specific purpose of the petitioner's Society. In any event, he would submit that if at all the respondents are able to substantiate the claim of assignment, even then no notice was issued or enquiry was conducted before the impugned order came to be passed and therefore, he would contend that viewed from any angle, the impugned order deserves to be set aside.



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6. Per contra, the learned Additional Advocate General, Mr.J.Ravindran, would submit that the lands were conditionally assigned to the petitioner's Society and when there is a violation, by not constructing any houses, the respondents were well within the right to resume the lands. He would further submit that in and by G.O.(Ms.)No. 1006, Development, dated 19.04.1939, it was mandatory for the members of the petitioner's Society to construct buildings within two years, from the date on which the lands were transferred to the petitioner Society and even in the said Government Order, according to the learned Additional Advocate General, it was made clear that in the event of any requirement of the lands for any other project, the Government shall have the power to resume the lands, including the buildings constructed thereon, for public use or for carrying on mining works by the Government. Further, the learned Additional Advocate General would place reliance on Section 16-B of the Land Acquisition Act, (Tamil Nadu Amendment Act, 1996), which provides for lands being forfeited. He would further place reliance on Revenue Standing Order 22 (6)(ii), which also provides for re-possession in cases where lands were acquired at a cost. He would



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submit that there is no illegality or perversity in the order passed by the first respondent. He would pray for dismissal of the writ petition.

7. The learned counsel for the third respondent, Mrs.S.Devasena, Standing Counsel, would also support the arguments of the learned Additional Advocate General, and contend that pursuant to the impugned order passed by the first respondent, the second respondent in and by proceedings dated 29.01.2024 has directed the Revenue Divisional Officer and fourth respondent to carry out necessary mutation in the revenue records and maintain the lands as a park. The learned Standing Counsel would further submit that the impugned order dated 23.01.2024, ordering resumption of lands is a reasoned order and the purpose of the assignments to the petitioner's Society was only for building residential quarters for employees and while being so, admittedly, constructions have not put up and the lands been unutilized for the several years and there can be no impropriety on the part of the first respondent in ordering resumption. The learned Standing Counsel for the third respondent would pray for dismissal of the writ petition. The learned counsel for the fifth respondent would also make submissions on similar lines.



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8. I have carefully considered the submission advanced by the learned counsel on either side.

9. It is not in dispute that the petitioner Society was formed for the Welfare of the Employees of the Madura Coats Mills. The Society has been functioning right from the year 1938. No doubt in the year 1975, the Society has been dissolved and liquidator has taken charge. The Government of Tamil Nadu had acquired 89.46 Acres for the specific purpose of allotting house sites for the members of the petitioner Society. A lay out has also been formed and while allotting plots in the lay out to the various members of the petitioner Society, certain areas were earmarked for establishing Co-operative store, formation of park, road, library, primary health centre, community hall, water tank, well etc. Even after reservation of such lands for public purpose, an extent of 3.98 Acres was left vacant and it has been under the petitioner Society's control. It is further seen that the said 3.98 Acres, vacant site has been shown in the approved lay out as well and the revenue records was only in the name of the petitioner Society. It is the specific contention of the learned



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Additional Advocate General that the conditions of assignment have been violated and therefore, the order of the first respondent ordering resumption does not require any interference. In fact, the petitioner Society filed a writ petition in W.P.(MD)No.192 of 2023 and this Court by order dated 01.03.2023 held that the Society has purchased the land in question and there was no assignment at all and proceeded to set aside the order of the District Collector, Madurai, directing the Registering Authority not to register any transaction. The said order has become final and no appeal was filed therefrom. Even in the present writ petition, when the matter was taken up for admission, this Court prima facie found that the impugned order was even amounting to contempt of the order of this Court in W.P.(MD)No.192 of 2023.

10. When this Court has categorically found that there was no assignment at all in favour of the petitioner Society, the foundation on which the impugned order has been passed itself stands rocked. In fact, I find that in the earlier round of litigation, this Court even granted time to the respondents to produce the assignment orders and despite indulgence shown by this Court, no assignment order was produced and only



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thereafter, the order dated 01.03.2023 came to be passed by this Court.

11. Even with regard to the reliance placed on Section 16-B of the Land Acquisition Act (Tamil Nadu Amendment Act) 1996, it enables the Government, subject to satisfaction that the land acquired for the public purposes have not been used for the purpose for which it was acquired, then the Government may order forfeiture of the land and direct that the land shall vest with the Government in the Revenue Department free from encumbrances. The proviso to Section 16-B requires the aggrieved persons to be given a reasonable opportunity of being heard.

12. As rightly contended by the learned counsel for the petitioner, Mr.H.Arumugam, the power is vested only under with the Government and therefore, the first respondent had no jurisdiction to assume the role of the Government and usurp the powers to the Government and pass the impugned order. The reliance placed on Rule 22 (6)(ii) of the Revenue Standing Order, which enables the condition to be imposed and also conferring the right of resumption of the lands is a power vested only with the Government again and not the first respondent. Therefore, there is no



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useful purpose in placing reliance on Section 16-B of the Land Acquisition Act, (Tamil Nadu Amendment Act, 1996). However, de hors the right of the first respondent to pass the impugned order, when this Court in no uncertain terms, in W.P.(MD)No.192 of 2023 dated 01.03.2023 has held that the petitioner has purchased the lands in question and there is no assignment, the question of alleging any violation of assignment conditions, does not arise at all.

13. Revenue Standing Orders 22 (6)(ii), which is pertaining to lands at the disposal of the Government, also enables only the Government, to resume the lands, if it is required for public purpose or for conducting mining operations. Therefore, the first respondent clearly lacked any authority or power to pass the impugned order. Therefore, even on this ground the impugned order is not sustainable.

14. In that regard, the learned counsel for the petitioner places reliance on a decision of the Hon'ble Division Bench of this Court in ***W.A.No.302 of 2015 (The Deputy Collector Revenue (South) V. M/s.Navasakthi Township Developers Pvt. Ltd.), dated 30.10.2015,***



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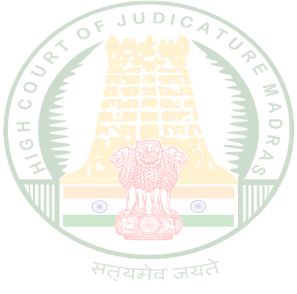
where the Hon'ble Division Bench held that none of the officials, including the District Collector and Secretary to Government (Revenue) were clothed with powers to direct resumption of land, without there being an executive action taken by the Government and as long as there is no decision of resumption land by the Government, the resumption of lands cannot be justified.

15. In view of the above, I hold that the order passed by the first respondent is without jurisdiction and also in violation of the orders passed by this Court in W.P.(MD)No.192 of 2023, dated 01.03.2023.

16. In fine, this writ petition is allowed ad the impugned order passed by the first respondent dated 23.01.2024 is quashed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
NCC : Yes / No
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TO:-

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Chepauk,
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P.B. BALAJI, J.

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Pre-delivery Order made in
W.P.(MD)No.4091 of 2024

Dated:
...04.2025