



W.A(MD) No.2097 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

AND

THE HONOURABLE MS.JUSTICE R.POORNIMA

W.A(MD)No.2097 of 2025

and

C.M.P(MD)Nos.12020 of 2025

S.A.V.Higher Secondary School,
Rep by its Secretary,
Mrs.Sonalatha
Chatram Street,
Near 2nd Gate
Tuticorin-628 002
(Cause title is accepted V.C.O, dated
24.04.2025 ordered in C.M.P(MD)No.
6343 of 2025)

...Appellant/ Petitioner

-Vs-

1.State of Tamil Nadu,
Rep by its Secretary to the Government,
Department of Revenue,
Secretariat,
Chennai-9.

2.The District Collector,
Collectorate,
Tuticorin District.

... Respondents/Respondents



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PRAYER: Appeal filed under Clause 15 of Letters Patent Act, against the order dated 14.06.2022 passed by this Court in W.P(MD)No.3281 of 2017.

For Appellant : Mr.T.Lajapathi Rai
Senior Counsel for
M/s.Roy and Roy Associates
For Respondents : Mr.B.Ramanathan,
Additional Government Pleader

ORDER

(Order of the Court was made by A.D.JAGADISH CHANDIRA,J.)

The intra-Court appeal has been filed against the order dated 14.06.2022 passed by the learned single Judge of this Court in W.P(MD)No.3281 of 2017.

2.The brief facts of the case are as follows:

The appellant/petitioner is an aided Higher Secondary School. By letter No. 1898/42 dated 07.04.1942, the District Collector, Tirunelveli, alienated the petition mentioned playground in favour of the petitioner School on free of charge. However, on finding finding that certain conditions have been violated, by impugned order dated 06.02.2017, the said assignment was cancelled and the playground was sought to be resumed. The Government had also issued a show cause notice dated 17.03.2011. Questioning the same, the petitioner had filed a writ petition in W.P(MD)No.5296 of 2011 before this Court and the said writ

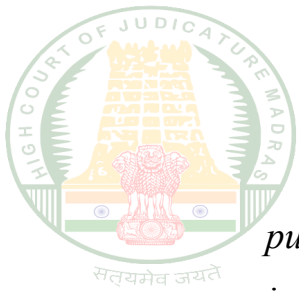


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petition was disposed of by directing the petitioner to offer their explanation. The first respondent, after going through the said explanation, had rejected the petitioner's explanation and passed the impugned order bearing (MS)No.34 Revenue Department, dated 06.02.2017 for resuming the playground. It was put to challenge in the said writ petition.

3.The learned single Judge, while disposing the writ petition, was pleased to pass the following order:

“6. The respondent has proceeded on the premise that contrary to the condition set out in the assignment order, a construction had been allowed to be put up by the petitioner. The petitioner has categorically stated that in order to ensure that the play ground is not trespassed, the petitioner appointed a watchman and the said watchman put up a temporary shed to stay therein. In my view, this will not amount to breach of the assignment condition. At the same time, I am not inclined to interfere with the impugned resumption order, because the order of alienation, dated 07.04.1942 itself provides that the Government may resume the land wholly or in part with building thereon if in the opinion of the Government, the land is required for a public purpose. In the impugned Government Order it has been stated that the school is located at the distance of 1.5 Kilometer away from the playground and that the Government can very well use the playground for appropriate



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purpose. The Government is proposing to develop the playground into a professional sports ground. Since such public purpose has been set out in the impugned Government Order, I have to necessarily sustain the same.

7. At the same time, the rights of the petitioner cannot be forgotten. For more than eight years, the playground in question has been recognized as that of the writ petitioner's School. The writ petitioner in the affidavit had stated that the ground is being used regularly for the benefit of the students and that they are also regularly holding tournaments and events. The respondents will permit the petitioner to continue to use the playground for their usual purposes. The petitioner's school is entitled to use the playground in question for their Physical Education classes. They can also conduct their school related events in the playground. Subject to this, I sustain the order resuming the playground by the Government. The Government of Tamil Nadu passed Tamil Nadu Parks, Play-Fields and Open Spaces (Prevention and Regulation) Act, 1959. The intention of the statute is evident. Once a place has been earmarked as a playground it will have to be maintained forever. Of course, on account of the implementation of Smart City Project, the playground in question is used to park the public buses. But then, this temporary arrangement cannot go on indefinitely. It is stated that the Smart City Project will be completed within about 12 months. Thereafter, the playground in question has to be maintained as a playground forever. The



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respondents will not permit any kind of encroachment to come up thereon. The petitioner's counsel alleges that at present, a number of shops have been allowed to be put up. These shops will have to be removed at the end of the 12 months' period. Since the rights of the petitioner that are obtaining as on date have been more than protected, the petitioner also cannot have any grievance".

Challenging the above said order, the present writ appeal has been filed by the petitioner school with delay.

5.The learned counsel appearing for the appellant submitted that the Government has not followed the due procedure while resuming the land from the petitioner. Since the respondents are attempting to use the land to some other use other than using it on a playground, the appeal has been filed.

6.Per contra, the learned Additional Government Pleader appearing for the respondents submitted that the writ petitioner is an aided school and that they have been assigned the land on 31.08.1942. Since they have violated the condition, notice was issued and only thereafter, an order was passed for resuming the playground, after giving sufficient opportunity. He further submitted that the respondents had resumed the land only for developing the playground as a huge



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stadium, so that, it can be used for the development of various sports activities.

Further the school is situated at a distance of 1.5 kms away from the playground and the petitioner have not put to use the land, for which, it was sought for. He further submitted that the respondents had given an undertaking that they will not prevent the school from using the playground as and when it is required by them for conducting of any sports activity, however subject to prior intimation to the respondents. He further submitted that the claim of the petitioner is that the land has been re-assigned to Thoothukudi Corporation in contravention of the Court's direction is only speculative and it has been done as an attempt to justify the delay of 968 days in filing the present appeal. Further though this Court had granted permission to the petitioner to use the said premises for their sports activity, they have neither conducted any activity nor sought for any permission till date. He further submitted that the Collector, Tuticorin District, has also by a sworn affidavit affirmed that the land will be continued to be maintained as a playground in accordance with the directions of this Court and the land, will all times, be preserved, maintained and used exclusively as a playground strictly in compliance with the mandate of this Court. The specific para in the affidavit is extracted hereunder:

“8.It is submitted that with regard to the formal allocation of the said land for continued maintenance as a playground in



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accordance with the directions of the Hon'ble High Court, an appropriate decision in this regard will be taken by the Government at the relevant time. However, it is reiterated that the land has, will all times, be preserved, maintained and used exclusively as a playground, strictly in compliance with the mandate of the Hon'ble Court."

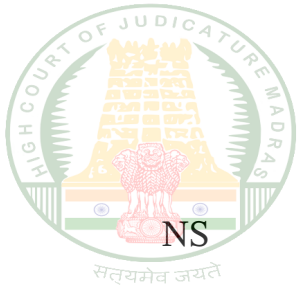
7.The aforesaid submissions made by the learned Additional Government Pleader as well as the relevant undertaking given by the District Collector in para No.8 of the affidavit statement are also taken note of.

8.In view of the above, we do not find any merit in this appeal and hence, the Writ Appeal stands dismissed. No costs. It is made clear that the petitioner school is entitled to use the playground for their physical education/ sports activities as and when required subject to intimation and obtaining permission from the District Administration. Consequently, connected miscellaneous petition is closed.

[A.D.J.C., J.] & [R.P., J.]
28.07.2025

NCC : Yes / No
Index : Yes / No

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A.D.JAGADISH CHANDIRA, J.

AND

R.POORNIMA, J.

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