

In the High Court of Judicature at Madras

Dated: 25-08-2008

Coram:

The Hon'ble Mr. A.K. GANGULY, CHIEF JUSTICE
and
The Hon'ble Mr. Justice F.M. IBRAHIM KALIFULLA

W.A.No.732 of 2008 and M.P.No.1 of 2008
and W.A.No.734 of 2008 and M.P.No.1 of 2008

N.N.Immanuel

... Appellant in W.A.732 of 2008

Mugappair West Garden Residents
Welfare Association, rep. by its Secretary,
Mr.J.Govindarajan, Plot No.84, HIG-II
Mugappair West Garden, Mugappair West,
Chennai - 600 037.

... Appellant in W.A.734 of 2008

-vs-

1. State of Tamil Nadu, rep. by its Secretary,
Revenue Department, Fort St. George,
Chennai-600 009.
2. The District Collector,
Tiruvallur District.
3. The President,
Nolambur Village Panchayat,
Nolambur.
4. Nethrodaya Trust, rep. by its Founder,
Mr.C.Govinda Krishnan,
No.8, Spartan Nagar, Mohappair East,
Chennai - 600 037.

... Respondents in both W.As.

Prayer:- Writ Appeals filed under Clause 15 of Letters
Patent, against the common order dated 02.04.2008 in
W.P.Nos.50052 of 2006 and 2034 of 2007 passed by the
learned single Judge of this Court.

W.P.Nos.50052 of 2006 and 2034 of 2007 presented to this Court
under article 226 of the Constitution of India praying this Court
to issue a writ of certiorarified mandamus calling for records

relating to the impugned order of the first respondent in (Permanent) No. 748, Revenue Department, dated 20.11.06 and of the same and consequently direct the respondents to consider assigning S.No. 46/3, Molambur Village, in favour of the respondent.

For Appellant .. Mr.R.Thiagarajan, Sr.Cl. for
Mr.J.Neduncheshiyan, and for
G. Periya perumal

For Respondents.. Mr.Raja Kalifulla, GP. for R1 to R3.
No appearance for R4.

(COMMON JUDGMENT OF THE COURT WAS DELIVERED BY
THE HON'BLE THE CHIEF JUSTICE)

Heard the learned counsel appearing for the appellant and the learned Government Pleader appearing for the State.

2. These two Writ Appeals have been filed challenging the common order dated 02.04.2008 passed by the learned single Judge of this Court, whereby the learned single Judge dismissed the writ petitions; W.P.No.5052 of 2006 filed by one individual/Appellant in W.A.No.732 of 2008 and W.P.No.2034 of 2007 filed by the Association/Appellant in W.A.No.734 of 2008. Since both the Writ Petitions had common prayer, both these Writ Petitions have been disposed of by a common order.

3. The prayer in both the writ petitions was for the issuance of writ of Certiorarified Mandamus to quash the impugned order passed by the first respondent in G.O.(Permanent) No.748, Revenue Department, dated 20.11.2006, in and by which a plot of land has been leased out in favour of the 4th respondent Nethrodaya Trust, which takes care of the physically challenged persons, for a period of 30 years at the rate of Rs.5,000/- per annum as rent. The said Trust made application on 22.3.2004 for alienation of Government land measuring an extent of 0.14.0 Hectares in S.No.47/1 classified as cattle stand poramboke, for construction of a Home for the blind. Admittedly, before making the grant of lease, the Government followed all the relevant procedures under the Board Standing Order and invited objections from the Villagers including the petitioners, no objection was brought forth at that point of time. After the land was leased out in favour of the fourth respondent Trust by G.O.(Permanent) No.748, Revenue Department, dated 20.11.2006, the writ petitions were filed and came to be dismissed by the learned single Judge.

4. The learned single Judge after recording the facts and circumstances of the case, found that admittedly the land is owned by the Government and it is prerogative of the Government to grant lease of the said land to the fourth respondent, which is doing charity for the upliftment of the blind people. It has been recorded that there is no complaint against the fourth respondent, even by the petitioners/appellants. Apart from that the suitability of the land leased out to the fourth respondent was also assessed and determined. From those facts, the learned single Judge found that the writ petitioners/appellants are not entitled to challenge such grant of lease by the Government in favour of the fourth respondent. The learned single Judge in the last line of paragraph 15 stated that in the absence of any right to the petitioners, they are not entitled to maintain the writ petitions.

5. When both the appeals are taken up for hearing, the learned counsel for the appellants started his arguments by saying that the appellants were seeking writ of mandamus and the said prayer has been disallowed by the learned single Judge of the Writ Court and that is why this Court repeatedly asked the learned counsel for the appellants to point out whether the writ petitioners/appellants have any right which is legally enforceable right for seeking writ of mandamus. In spite of the repeated queries of the Court, learned counsel for the appellant could not point out any answer. We also do not see any right in favour of the writ petitioners/appellants for seeking writ of mandamus. We therefore, do not find any error in the order passed by the learned single Judge. We also hold that there is no merit in both the writ appeals.

6. Both the writ appeals are dismissed by granting costs of Rs.2,500/- to be paid by each of the petitioners/appellants in favour of the Tamil Nadu Mediation and Conciliation Centre. The costs must be deposited within a period of four weeks from today. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

R. Kamala Kumari
for Superintendent 17/10/08
Registry Department

Au0073957

1. The Secretary, Government of Tamil Nadu, Revenue Department,
Fort St. George, Chennai-600 009.

3. The President, Nolambur Village Panchayat, Nolambur.

Copy to

2 cc's to Mr. J. Nedunchezhiyan, Advocate, SR. 47502
2 cc's to Government Pleader, SR. 47408 and 47414

GDR (CO)
kk 6/9



Au0073958

The High Court of Madras
 Office of the Registrar
 No. 1985 P. 2008
 Application made 25.10.2008
 Application returned 200
 Application represented 200
 Stamps called for 17.10.2008
 Stamps deposited 17.10.2008
 Addl. stamps called for 200
 Addl. stamps deposited 200
 Copy ready 12.10.2008
 Copy delivered 20.10.2008

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