



W.P.(MD)No.14532 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 13.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.14532 of 2021

and

W.M.P.(MD)No.11475 of 2021

1.S.Sethukumar

2.S.Manjula

... Petitioners

Vs.

1.The Principal Secretary,
Commissioner of Land Administration (FAC),
Chepauk, Chennai-600 005.

2.The District Collector,
Karur District, Karur.

3.The District Revenue Officer,
Karur District, Karur.

4.The Revenue Divisional Officer,
Karur.

5.The Tahaildar,
Karur.

6.K.Thangaraj

...Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records of the first respondent impugned proceedings in Proc.No.G1/1619/2020 dated 11.05.2021 quash the same.



W.P.(MD)No.14532 of 2021

For Petitioners : Mr.R.Devaraj
For R1 to R5 : Mr.A.K.Manikkam
Special Government Pleader
For R6 : Mr.S.Gokulraj

ORDER

This writ petition has been filed challenging the impugned proceedings of the first respondent in Proc.No.G1/1619/2020 dated 11.05.2021, wherein the first respondent has cancelled the assignments made in favour of the petitioners on 17.10.2002 and has further directed the District Revenue Officer, Karur to carry out necessary changes in the revenue records and resume the subject property in Survey Nos.238/B and 239 and protect the same from any further encroachments.

2.The case of the petitioner is that they were the owners of larger extent of property in Survey No.234, 236, 240 and a portion of survey No.238. In between these properties, survey No.239 and a portion of Survey No.238, belonging to the Government were land locked. Hence, the said properties were not able to be used by the Government. The petitioners therefore, made representations /applications seeking for assignment of the land in Survey Nos. 238/B measuring an extent of 0.50.0 ares and 239 measuring an extent of 0.50.5 ares. The fifth respondent conducted enquiry and had given a report. Similarly



W.P.(MD)No.14532 of 2021

the fourth respondent has also given a report to the third respondent. The third respondent passed the assignment orders and the subject properties were assigned in favour of the petitioners. This order was passed on 17.10.2002.

The relevant portion in the assignment order is extracted hereunder:

With respect to first petitioner:

“f&u; tl;lhl;rpau; mwpf;ifapd; Ngupy; f&u; tUtha; Nfh;l;lhl;rpaUk; jyg;ghu;itapl;Lk;> tprhuiz nra;Jk; ghu;it 1y; fz;Ls;s mwpf;ifapy; gupe;Jiu nra;Js;shu;.

epy xg;gil NfhUk; epykhdJ f&u; tl;lk;> Mz;lhq;Nfhpty; Nky;ghfk; Gy vz;. 238/gp-apy; 0.50.0 Vu;]; fpuhkf; fzf;Ffspy; jPu;it Vw;gl;l juprhf tifg;ghL nra;ag;gl;Ls;sJ. ,e;j epyj;jpy; kuq;fs;. fdpk tsq;fs;> Guhjhdr; rpd;dq;fs; VJkpy;iy.

kDjhuu; ngaupy; epy xg;gil nra;tJ njhlu;ghf nghJ kf;fsplkpUe;J Ml;Nrgiz VJk; ngwg;gltpy;iy. gpu];jhg epyj;jpd; epykjpg;G epu;zak; nra;tJ njhlu;ghf 15.9.99 Kjy; 18.12.2001 Kba f&u; rhu;gjpthsu; mYtyfj;jpy; tpw;gidg; Gs;sp tptuq;fs; Nrfupf;fg;gl;ld. ,jpy; 26.4.2001 ehisa Mtz vz;.1870-d;gb 2.42 Vf;fu; &.70>180/-f;F Gy vz;. 228/3y; tpw;gidahfpAs;sJ. mlkhdk; nra;ag;gLk; epyKk;> fpua epyKk; xNu kz; tadv;> juk;> jPu;it xj;jpUg;gjhy; ,jdbg;gilapy; Vf;fu; xd;Wf;F &. 29>000/- vd fzf;fplg;gl;L 0.50.0 Vu;]; epyj;jpw;F epykjpg;ghf vLj;Jf; nfhz;L> 27.4.01 (Kjy; 15.9.02 Kba 507/365 ehl;fSf;F \$Ljy; cah;T 12 % Nru;j;J 0.50.0 Vu;]pw;F &.41>785/- vd epykjpg;G epu;zak; nra;ag;gLfpwJ. mlkhdk; NfhUk; epyj;ij fPo;f;fz;l fhuzq;fshy; rpwg;gpdkhff; fUjp Mizaplg;gLfpwJ.

1.kDjhuu; tptrhaf; FLk;gj;jir; rhu;e;j eLj;ju tptrhap MfTs;shu;.



W.P.(MD)No.14532 of 2021

- 2.mlkhd epykhdJ Kw;wpYk; tptrhaj;jpw;Nf gad;gLj;jg;gl;L tUfpwJ.
- 3.epyr;rPu;jpUj;jk; nra;a kDjhuu; epykjpg;gpy; ,uz;L klq;F tiu nryT nra;Js;shu;.
- 4.mlkhd epykhdJ kDjhuupd; Neub guhkupg;gpy;> mtUf;F nrhe;jkhd gpw epyq;fSf;F kj;jpapy; cs;sJ.
- 5.NtW epyq;fs; topahf xg;gil epyj;jpw;F ghijapy;yhjhy; ,tiuj; jtpu NtW vtUf;Fk; toq;f ,ayhJ.
- 6.muRf;F Mjhakhf epyf;fpuak; &.41>785/- kDjhuuhy; nrYj;jg;gly; Ntz;Lk;.
- 7.NtW egu; vtUk; gzk; fl;j; jahuhf ,y;iy.

Nkw;fz;l fhuzq;fspd; mbg;gilapy; ,jid rpwg;gpdkhff; fUj;jpw;nfhz;L> kDjhuu; jpU.NrJf;Fkhu; vd;gtuplk; &.41>785/--l nuhf;fkhfr; nrYj;j Ntz;Lk;. ,jpy; Vw;fdNt nrYj;jpa Kd; itg;Gj; njhif &.35>850/- fopj;Jf;nfhz;L (nryhd; 30/00, ehs;:20.12.2000) kPjKs;s njhif &.5>935/l tR+ypj;Jf; nfhz;L epy xg;gil nra;J Mizaplg;gLfpwJ.”

With respect to second petitioner:

“ghu;it 1y; fz;Ls;s f&u; tUtha; Nfhl;lhl;rpau;> mtuJ mwpf;fapid; %yk; jpUkjp. kQ;Rsh vd;gtUf;F epy xg;gil nra;J nfhLf;f rpghupR nra;J mwpf;if mDg;gpAs;shu;u;.

,e;j mwpf;iffs;> kw;Wk; fpuhkf; fzf;Ffs; gjpNtLfs;> gj;jpu Mtzq;fs; Mfpatw;iw \$u;e;jha;T nra;ag;gl;L> jyg;ghu;itaplg;gl;IJ.

epy xg;gil NfhupAs;s epyk; f&u; tl;l;k;> Mz;lhq;Nfhpty; Nky;ghfk;> Gy vz;.239y; 0.54.5 Vu;]; fpuhkf; fzf;Ffs; jPu;it Vw;gl;I jupR vdg; gjpthfpAs;sJ. xg;gil NfhupAs;s epyj;jpy; kuq;fs;> Nfhpty;fs;> Guhjhdr; rpd;dq;fs;> fdpk tsq;fs; VJkpy;iy>



W.P.(MD)No.14532 of 2021

WEB COPY

kDjhuupd; ngaupy; epy xg;gil nra;tJ njhlu;ghf nghJkf;fs;
Ml;Nrgiz VJkpy;iy. gpu;]jhg epyj;jpw;F epykjpg;G epu;zak; nra;tJ
njhlu;ghf 15.9.99. Kjy; 18.12.2001 Kba f&u; rhu;gjpthsu; mYtyfj;jpy;
tpw;gidg;Gs;sp tptuq;fs; Nrfupf;fg;gl;jpy;> 26.4.2001-y; Mtz vz;:
1870-d;gb 2.42 Vf;fh; epyk; (Gy vz;.228/3-y;) &.70>180/-f;F
fpuak; nra;ag;gl;Ls;sJ. MlkhdK; nra;ag;gLk; epyj;jpd; kz; tadk;>
jPu;it> juk; xNu khjpup cs;sJ. vdNt> Vf;fu; xd;Wf;F &.29.000/- vd;w
tpfpjj;jpy; 0.54.5 Vu;]pw;F &.39.038/- vd tpiy kjpg;G epu;zak;
nra;ag;gLfpwJ. 27.4.01 Kjy; 15.9.02 tiu 507/365 ehl;fSf;F \$Ljy; njhif
tpiy kjpg;gpy; 12% Nru;j;J 0.54.5 Vu;]pw;F &.5>545/- vd epu;zak;
nra;ag;gLfpwJ. mlkhdk; NfhUk; epyk; rpwg;gpdkhff; fPo;f;fz;l
fhuzq;fshy; fUj;jpw;nfhz;L Mizaplg;gLfpwJ.
1.kDjhUU; tptrhaf; FLk;gj;ijr; rhu;e;j rpW tptrhap ,dj;jpy; cs;shh;.
2.mlkhd epykhdJ Kw;wpYk; kDjhuuhy; tptrhak; nra;tjw;F kl;LNk
gad;gLfpwJ.
3.kDjhUU; epyj;ij rPu; nra;tjw;F fpuaj; njhiff;F Nky; nryT nra;Js;shu;.
4.mlkhd epykhdJ> kDjhuupd; epyj;jpw;F kj;jpapy; cs;sJhy;. NtW
egu;fSf;F toq;f ,ayhJ. ghij fpilahJ.
5.muRf;F> KOf; fpiuaj; njhifia kDjhUU; nrYj;jg;gl Ntz;Lk;.
6.muRf;F Mjhak; &.45.545/- nuhf;fkhf fpilj;Js;sJ.
7.NtW egu; vtUk; gzk; fl;l jahuhf ,y;iy.

Nkw;fz;l fhuzq;fspd; mbg;gilapy; ,jid rpwg;gpdkhff; fUjp>
kDjhUU; kQ;Rsh vd;gtuplk; &.45>545/- nuhf;fkhf; nrYj;j Ntz;Lk;.
Vw;fdNt ,tu; nrYj;jpAs;s Kd; itg;Gj; njhif &.9>000/-+3,110/- (nryhd;
39/2000, ehs;:20.12.2000) Nghf kPjpj; njhif &.33.435/- tR+ypj;Jf;
nfhz;L epy xg;gil nra;J Mizaplg;gLfpwJ.”

3.Pursuant to the above, the petitioners also paid the amount as



W.P.(MD)No.14532 of 2021

demanded in the assignment orders and they were in possession and enjoyment of the same.

4.While so, the sixth respondent had given a complaint before the District Revenue Officer to the effect that he is doing agricultural work in the subject properties and that behind his back, the assignments were made in favour of the petitioners. Since the complaint was not considered, he W.P. (MD)No.19535 of 2017 before this Court. The said writ petition was disposed of by an order dated 24.10.2017 directing the District Revenue Officer to deal with the complaint on its own merits and in accordance with law and pass orders within the time frame fixed by this Court.

6.Pursuant to the above order, the third respondent conducted enquiry proceedings and rejected the claim made by the sixth respondent through proceedings dated 15.02.2018. Thereafter, the sixth respondent filed yet another writ petition in W.P.(MD)No.996 of 2020 before this Court for a direction to the official respondents to remove the fence that was erected by the petitioners in the common cart track and thereby preventing the sixth respondent from entering into the property. This writ petition came to be dismissed by an order dated 21.01.2020 and the relevant portions in that order

is extracted hereunder:

<https://www.mhc.tn.gov.in/judis>



“3.It is stated by the petitioner that the 7th and 8th respondents have erected a fence by blocking the common cart pathway in order to prevent the petitioner from entering into his land in an illegal manner. It is stated further that the petitioner has earlier filed an appeal as against the order granting patta in favour of the 8th respondent. It is also admitted before this Court that the petitioner's father has filed a civil suit in O.S.No.528 of 2000 on the file of the District Munsif Court, Karur. The petitioner's father pleaded in the said suit that he was in possession and enjoyment of the suit property and that the defendants therein are trying to get patta for the suit property. The prayer in the interlocutory application filed in the said suit was for restraining the official respondents from granting patta to some other persons in respect of the suit property.

4.The petitioner's father filed another suit in O.S.No.676 of 2002 on the file of the District Munsif Court, Karur for a permanent injunction restraining the defendants therein from entering into his peaceful possession and enjoyment of the suit property. Though the petitioner has not stated anything about the disposal of the suit, the learned Counsel for the petitioner submitted that the suit came to be dismissed for default and that no further steps taken to restore.

5.Having regard to the admitted facts in the present case, a direction cannot be issued to the official respondents to remove the fencing put up by the third parties. The petitioner has filed two suits one after another in relation to the property in dispute. It is open to the petitioner to file a petition to restore the suit, which according to the petitioner, was dismissed for default and prosecute the same till its logical end. The petitioner cannot file a Writ Petition on the same cause of



W.P.(MD)No.14532 of 2021

action, which arose and available for the petitioner to prosecute the suit.”

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7. In the meantime, the first respondent acted upon the revision petition filed by the sixth respondent dated 08.01.2019 and called for an enquiry. The first respondent dealt with the claim made by the sixth respondent and also dealt with the assignments that were made in favour of the petitioners. Insofar as the claim made by the sixth respondent is concerned, the same was rejected by the first respondent. The first respondent also directed to cancel the assignments made in favour of the petitioners and to resume the lands to its original position and carry out necessary changes in the revenue records. The same is put to challenge by the petitioners in this writ petition.

8. This Court has carefully considered the submissions made on either side and the materials available on record.

9. The first respondent has cancelled the assignments made in favour of the petitioners on two grounds. The first reason assigned by the first respondent is that the petitioners ought to have paid double the land cost and the same was not paid by the petitioners. The second ground that was put against the petitioners is that they are already having other lands to an extent of 20 acres and the subject property ought to have been given only in favour of landless poor. Therefore, the very assignments made by the third respondent in



W.P.(MD)No.14532 of 2021

favour of the petitioners are liable to be cancelled.

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10.Insofar as the first ground is concerned, in the assignment orders dated 17.10.2002, there is absolutely no indication that the petitioners will have to pay double the land cost. It is not known as to where the first respondent found such condition. The first respondent has mentioned this ground without tracing any Rule or Regulations in this regard. In any case, this was not the condition imposed on the petitioners when the assignments were made in their favour through proceedings dated 17.10.2002. Hence, the first ground that was put against the petitioners is unsustainable.

11.Insofar as the second ground that was put against the petitioners to the effect that they are already owning other lands is concerned, the same is also unsustainable. This is a case, where some pockets of the Government land were locked within the other lands belonging to the petitioners. Therefore, these lands were not able to be used. Hence, the petitioners made an application and the same was considered by third respondent based on the report submitted by the fourth and fifth respondents and assignments were made by directing the petitioners to pay the market value. Therefore, the original assignments were not made on the ground that the petitioners were landless poor, whereas it was made only on the ground that a portion of land belonging to the Government



W.P.(MD)No.14532 of 2021

was not able to be utilized and therefore, it was thought fit to assign the lands to the petitioners for market value. When that was the ground, on which the subject lands were assigned in favour of the petitioners, it is not known as to why the first respondent came to the conclusion that these lands ought to have been assigned in favour of landless poor people. In view of the same, the second ground that was put against the petitioners is also interfered with by this Court.

12.Taking into consideration the facts and circumstances of the case, this Court does not want the Government to be deprived of any revenue. If the petitioners are to pay double the cost of the land, this Court deems it fit to direct the petitioners to pay the same. Accordingly, the first petitioner is directed to pay a sum of Rs.41,785/- and the second petitioner is directed to pay a sum of Rs.45,545/- to the respondents. If this amount is paid, it will virtually amount to paying double the cost of the land by the petitioners. This amount shall be paid by the petitioners before the third respondent within a period of four weeks from the date of receipt of a copy of this order.

13.With regard to the right claimed by the sixth respondent, this Court

had already given liberty to the sixth respondent to workout his remedy before



W.P.(MD)No.14532 of 2021

the civil Court while passing order in W.P.(MD)No.996 of 2020 dated 21.01.2020. In view of the same, one more liberty need not be granted to the sixth respondent.

14.In the result, the impugned proceedings of the first respondent in proceedings No.G1/1619/2020 dated 11.05.2021 is hereby quashed and this writ petition stands allowed with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

13.12.2023

NCC : Yes / No

Index : Yes/No

Internet : Yes/No

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To

1.The Principal Secretary,
Commissioner of Land Administration (FAC),
Chepauk, Chennai-600 005.

2.The District Collector,
Karur District, Karur.

3.The District Revenue Officer,
Karur District, Karur.

4.The Revenue Divisional Officer,
Karur.

5.The Tahaildar, Karur.



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W.P.(MD)No.14532 of 2021

N.ANAND VENKATESH, J.

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W.P.(MD)No.14532 of 2021

13.12.2023