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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.A.No.66 of 2015
and
M.P.No.1 of 2015

M/s.Elangiam Enterprises,
rep by its Proprietor,
M.Varadharajan
S/o.V.Muthuveerapillai,
No.97/4, Trichy Road,
Dindigul-624 001.

... Appellant /Petitioner

Vs.

1. The Special Commissioner and
the Commissioner of Land Administration,
Chepauk,
Chennai-600 005.

2. The Revenue Divisional Officer,
Dindigul District,
Sub-Collectors Office Road,
Dindigul.

3. The Divisional Engineer (Highways)
Dindigul Division,
Trichy Road, Dindigul.

4. Tamilnadu Government Office Assistants
and Last Grade Employees Sangam,
rep by its President,
No.4, Trichy Road,
Opp. Narayana Iyyer Kalyana Mandapam,
Dindigul.

... Respondents /Respondents



This Writ Appeal is preferred under Clause 15 of the Letters Patent against the order dated 01.12.2011 passed in W.P.No.13098 of 2003.

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Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records of the respondent relating to the proceedings in Ka.No.6105/2001-A5 dated 01.04.2003 passed by the third respondent; to quash the same and to direct the third respondent to remove the encroachment made in T.S.No.353, Ward No.2, Block No.7, Dindigul-Trichy Road, Dindigul in an extent of 2000 sq.ft. made by the fourth respondent.

For Appellant : Mr.G.Ethirajulu

For Respondents : Mr.N.Sakthivel, GA for RR1 to 3
Mr.V.Bhiman for Mr.R.Ganesh Babu for R-4

JUDGMENT

(Judgment of the Court was delivered by SATISH K. AGNIHOTRI, J.)

This instant intra-court appeal arise from the order dated 01.12.2011 passed in W.P.No.13098 of 2003.

2. The appellant / writ petitioner preferred this writ petition being W.P.No.13098 of 2003, seeking a writ of certiorarified mandamus, calling for records relating to the proceedings dated 01.04.2003 passed by the third respondent and to quash the same with a direction to the third respondent to remove the encroachment made in T.S.No.353, Ward No.2, Block No.7, Dindigul-Trichy Road, Dindigul to an extent of 2000 sq.ft made by the fourth respondent.

3. The case of the appellant /writ petitioner before us is that the third respondent had failed to remove the encroachment in T.S. No.353 put up by the fourth respondent, who claims to be in possession since 1968. The third respondent made it clear that on account of possession of the members of the fourth respondent association, the third respondent had sent a proposal to the second respondent for assignment of the said land in favour of the fourth respondent and for regularisation of their possession, which is pending consideration.



4. The learned Single Judge, recording the finding that since the matter is pending with the authority for the purpose of assignment in favour of the fourth respondent, the writ petition was misconceived and accordingly, dismissed the same.

5. The learned counsel appearing for the appellant would submit that the land, after having acquired from the appellant, cannot be assigned to the fourth respondent Association for no consideration. If the land is assigned to the members of the fourth respondent association, they would create nuisance and also cause public disturbance in the neighbourhood of the appellant/ writ petitioner.

6. On the other hand, the learned counsel appearing for the fourth respondent would submit that the fourth respondent was in possession of the land in question since 1968. The authorities have taken such a decision having regard to the social and financial condition of the members of the fourth respondent as a welfare measure. It is further contended that the contention of public nuisance has no basis. Once the land of the appellant has been acquired by the State Government / Highways authorities, it is for them to assign it to other needy people like the members of the fourth respondent association.

7. We have carefully considered all aspects of the matter. The fact that the fourth respondent is in possession of the land in question since 1968 is not in dispute. It is also not doubted that the property belongs to the Highways Department, which is the part of the Government. If the authorities, having considered the financial and social status of the members of the fourth respondent Association, had taken a decision to assign patta in their favour, the same cannot be stalled at the instance of the appellant, who alleges that the members are creating public nuisance, without any basis. Whether there is consideration for allotment or not is not an important issue, particularly in the facts situation when the fourth respondent is already in possession of the land in question for a very long period.

8. Resultantly, we do not find any error, irregularity or illegality in the order of the writ court sought to be impugned in



this writ appeal. The writ appeal is dismissed. No costs.
Consequently connected miscellaneous petition is closed.

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Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar.

vvk

To

1. The Special Commissioner and
the Commissioner of Land Administration,
Chepauk, Chennai-600 005.
2. The Revenue Divisional Officer,
Dindigul District,
Sub-Collectors Office Road,
Dindigul.
3. The Divisional Engineer (Highways)
Dindigul Division,
Trichy Road, Dindigul.

+1cc to Mr.R.Ganesh Babu, Advocate, S.R.No.10049
+1cc to Mr.G.Ethirajulu, Advocate, S.R.No.9784
+1cc to the Government Pleader, S.R.No.9850

W.A.No.66 of 2015

TEJ(CO)
CA(04/03/2015)