

IN THE HIGH COURT OF JURIDATURE AT MADRAS

DATED: 10.6.2015

CORAM

THE HON'BLE MR.JUSTICE V.RAMASUBRAMANIAN

Rev.A.No.13 of 2015, W.P.No.23659 of 2014 &
M.P.No.1 of 2014 in W.P.No.23659 of 2014

Government Film and TV Employees
Welfare Association
rep. by its Secretary Subramaniam
No.11, Amirtham Avenue
Bharani Street, Velacherry
Chennai 600 042.

.. Review Applicant

Government Film and TV Employees
Welfare Association
rep. by its President T.R.Sagadevan
No.5, Baby Nagar
Velacherry
Chennai 600 042.

.. Writ Petitioner &
R1 in M.P.No.1/14

Vs.

M.Baskar
S.Menaka
V.Mohan
R.Vasanthi
M.Mageshwari
R.Kaveri
M.Devaraj
Samundeswari
Y.Mythily
S.Nirmala
S.Vijay
B.Kannan
M.Raja
J.Chandru
B.Madan Kumar
S.Nandhakumar
D.Subash
M.Karvannan
S.Shanthi
R.Anand

N.Veni
T.Vettri
J.Jayakumar
V.Poomagal
P.Divya
P.Sivakumar
R.Moorthy
N.Elangovan
K.Muniammal
V.Prema
K.Sarathy
S.Sagunthala
M.Rajasekar
C.Clara
S.Aishwarya
Thenmozhi
G.Karunanithi
S.Mahalakshmi
Susai Raj

.. Respondents 1-39
in Rev.Appln.

The Secretary to Government
Government of Tamil Nadu
Revenue Department
Fort St. George
Chennai 600 009.

.. R40 in Rev.Appln.
& Respondent in
W.P. & R2 in M.P.
No.1/14

The Commissioner
Land Reforms, Chepauk
Chennai 600 005.

The Commissioner
Land Administration
Land Reforms, Chepauk
Chennai 600 005.

The District Collector
Chennai District
Singaravelan Maligai
Chennai.

The Tahsildar
Mambalam Guindy Taluk
K.K.Nagar, Chennai 600 078.

Bharat Rathna Dr.Ambedkar Housing Welfare
Association rep. by its President Prabu

No.11, Sambandam Garden
100 Feet Tharamani Link Road
Velachery, Chennai 600 042.

.. R41 to R45 in
Rev. Appln.

Review Application under Order XLI, Rule 1, CPC read with Section 114 CPC, to review the order dated 31.7.2012 made in W.P.No.5000 of 2011 on the file of this Court.

Writ Petition under Article 226 of the Constitution of India praying for a writ of Mandamus directing the respondent to grant adequate police protection to the petitioner.

M.P.No.1 of 2014 for impleading the petitioner as a party respondent in the writ petition.

For Review Applicant/ Writ Petitioner & R1 in M.P.No.1/14	:	Mr.M.Gnanasekar
For Petitioner in M.P.	:	Mr.S.Ramesh
For R1-R39 in Rev.A.	:	Mr.V.Selvaraj For Mr.Rabu Manohar
For R40-R44 in Rev.A. & R2 in M.P.No.1/14	:	Mr.R.Rajeswaran, Spl.G.P.

ORDER

By an order made in G.O.Ms.No.918, Revenue Department dated 19.11.1998, the Government assigned the land of an extent of about 6690 sq.mtrs. in S.No.316/6J, Velachery Village, for allotment to 90 members of a registered Society by name Bharat Rathna Dr.Ambedkar Housing and Social Welfare Society Limited. After the allotment, one portion of the land was acquired for the purpose of Metro Rail Project.

2. Therefore, the Society filed a writ petition in W.P.No.25031 of 2005. It was disposed of by this Court by an order dated 04.8.2005 directing the

Government to consider the representation of the Society and to pass orders within 12 weeks thereafter. When the Government was examining the representation of the Society, a complaint came to be made that the office bearers of the Society were alienating the allotted lands to a builder. Therefore, taking note of the complaint and after getting confirmation that there were at least 13 transactions on the land after the allotment, the Government issued an order in G.O.Ms.No.48, Revenue, dated 30.01.2008 cancelling the allotment made earlier under G.O.Ms.No.918.

3. Therefore, a group of about 39 persons came up with a writ petition in W.P.No.5000 of 2011, claiming that they were members of the allotted Society and that each of them was allotted land and also handed over possession of the land. The prayer in the writ petition was for setting aside the Government Order dated 30.01.2008 by which the original allotment stood cancelled. The writ petition was admitted on 01.3.2011 and an interim order of injunction to protect the possession of the writ petitioners was also granted.

4. Thereafter, the petitioners in W.P.No.5000 of 2011 came to know that the same land was re-allotted by the Government to a Central Government institution known as Geo Special Data Centre of the Survey of India under a fresh Government Order G.O.Ms.No.250, Revenue dated 28.7.2009. This order was followed by another order in G.O.(D) No.163,

Revenue dated 16.4.2010 putting the Central Government Department in possession of the land.

5. Therefore, the group of 39 persons, who filed W.P.No.5000 of 2011, came up with a fresh writ petition in W.P.No.6585 of 2011. The prayer in the said writ petition was for setting aside the allotment made in favour of the Central Government Department.

6. Since both the writ petitions related to the same land, they were taken up together and they were disposed by me by a common order dated 31.7.2012. By the said order, I directed the Government of Tamil Nadu to allot alternative lands to the writ petitioners, on account of my finding that those petitioners were dispossessed otherwise than in accordance with law.

7. It appears that both the Government of Tamil Nadu as well as the writ petitioners have taken up the matter on appeals. The appeals are pending in W.A.Nos.1110 of 2013 and 1111 of 2013. The appeals filed by the Government in W.A.Nos.980 and 981 of 2013 are said to be pending with an interim order of stay.

8. In the meantime, there was yet another twist to the whole drama. Another Society by name Government Film and Television Employees Welfare Association filed a writ petition in W.P.No.23629 of 2013, praying for a writ of

Mandamus to direct the Government to consider their representation for the allotment of the land in a different survey number, namely survey Nos.316/6B2 and 316/6D2 in Velachery Village. The said writ petition was disposed of at the admission stage on 21.10.2013 with a direction to the Government to consider and pass orders within one month.

9. In the meantime, the original owner of the land in question by name Ramakrishnan had already come up before this Court with a writ petition in W.P.No.11205 of 2008 on the ground that the proceedings for acquisition of land under the Tamil Nadu Urban Land Ceiling Act were null and void. Therefore, taking note of all these, the Government issued G.O.Ms.No.549 dated 31.12.2013 rejecting the representation of the Government Film and Television Employees Welfare Association. Challenging the said Government Order rejecting their representation, the Government Film and Television Employees Welfare Association came up with a second writ petition in W.P.No.919 of 2014. The said writ petition was taken up along with the writ petition W.P.No.11205 of 2008 filed by the original owner of the land, namely S.Ramakrishnan. By a common order dated 19.8.2014, the writ petition filed by the original owner was dismissed and the writ petition filed by the Government Film and Television Employees Welfare Association was allowed directing the Government to allot the lands in Survey Nos.316/6B2 and 316/6D2, Velachery, to the members of the said Association.

10. After obtaining such an order in their writ petition W.P.No.919 of 2014, the Government Film and Television Employees Welfare Association found that there was an anti-climax to the said order and it may not bring the desired result in view of the order passed by me in the writ petitions W.P.Nos.5000 and 6585 of 2011. Therefore, the Government Film and Television Employees Welfare Association have come up with an application to review my order dated 31.7.2012 passed in W.P.Nos.5000 and 6585 of 2011. Originally they sought leave to file a review application and I granted leave in view of the specific stand taken by the review applicant that the petitioners in whose favour an order was passed by me on 31.7.2012 were not at all the allottees. Subsequently, when the review application was taken up for hearing, it was brought to my notice that there was another writ petition filed by the Government Film and Television Employees Welfare Association in W.P.No.23659 of 2014 seeking police protection against the respondents in the review application and their society. In that writ petition, the original owner has come up with a miscellaneous petition to implead himself as a party. Therefore, the said writ petition and the impleading petition were also taken up together.

11. The disposal of the review application, in my considered view, will make the other things fall in line. Therefore, I shall take up the review application first. The applicant in the review application is a third party to W.P.Nos.5000 and 6585 of 2011. Though they are third parties to the main

writ petition, their grievance is that if the Government allots alternative lands from out of the land for which they have already obtained orders in W.P.No.919 of 2014, they will be aggrieved. In other words, their main apprehension is that the order passed by me on 31.7.2012 may stand in the way of implementation of the order that this Government Film and Television Employees Welfare Association has obtained in W.P.No.919 of 2014. But, I think their apprehension is misconceived. The original allotment under G.O.Ms.No.918 dated 19.11.1998 was in respect of Survey No.316/6J. The land in respect of which the Government Film and Television Employees Welfare Association sought allotment was in Survey Nos.316/6B2 and 316/6D2. Therefore, there is no clash of interest.

12. In any case, the main ground on which review is sought is that the writ petitioners in W.P.Nos.5000 and 6585 of 2011 had impersonated as the original allottees and came up before Court. But, this is a contention which can neither be proved by the review applicant, nor borne out on the face of the record. Except filing a tabular statement dated 11.8.2005 issued in the letter of the 45th respondent indicating the names of 90 persons along with the plots allotted to them, the review applicant has not produced any other material to show that the allotment was in favour of named individuals. The original Government Order does not appear to contain any annexure, giving the names of all the 90 persons. Therefore, if 39 writ petitioners in whose favour an order was passed on 31.7.2012 were not the original allottees, the

Government will not and need not make any allotment of alternative site to them. This question is left at large in the writ appeals filed by the Government in W.A.Nos.981 and 982 of 2012. Therefore, at the instance of the third party, the question whether the writ petitioners were members of the 45th respondent or not cannot be gone into in a writ petition. Hence, the review application cannot be entertained. However, in order to test whether the writ petitioners who obtained orders under Article 226 were genuine parties, it is always open to the review applicant to seek to implead themselves as parties in the writ appeal, so that no one is ultimately allotted any land and the property remains with the Government.

13. In view of the above, review application is dismissed with liberty to implead itself as a party in the writ appeals.

14. In view of the order passed in the review application, the prayer sought in W.P.No.23659 of 2014 cannot be granted. Therefore, the writ petition is dismissed. Consequently, the miscellaneous petition, M.P.No.1 of 2014 for impleading is also dismissed. M.P.No.1 of 2015 in Review Application is closed.

Index : Yes/No
Internet : Yes/No

10.6.2015.

kpl

V.RAMASUBRAMANIAN,J.

kpl

To

1. The Secretary to Government
Revenue Department
Fort St. George, Chennai 600 009.
2. The Commissioner
Land Reforms, Chepauk, Chennai 600 005.
3. The District Collector
Chennai District, Singaravelan Maligai
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