



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2015

CORAM:

THE HONOURABLE MR. JUSTICE V.RAMASUBRAMANIAN

and

THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR

W.A.No.8 of 2013

&

M.P.No.1 of 2013

The Administrator
Tiruthani Co-Operative
Sugar Mills Limited
Thiruvalangadu
Tiruthani Taluk
Chengalput District

... Appellant

Vs.

1. Sabarathinam

2. The Secretary
Industries Department
Fort St. George
Chennai - 600 009

3. The Commissioner of Sugar
No.474, Anna Salai, Nandanam
Chennai - 600 035

... Respondents

Writ Appeal filed under Clause 15 of Letter Patent against the order dated 02.04.2012 made in W.P.No.247 of 2010.

Petition filed under Article 226 of the constitution of India for the relief of issuance of writ of certiorarified mandamus to call for the entire records in Rc. No.E1/1537/01 order dt 28.10.2009 passed by the 3rd respondent herein and quash the same and further directing the 3rd respondent to give employment to the petitioners son Mr. Sathish Kumar as per his qualification within a stipulated time.

For Petitioner : Mr.S.Siva Shanmugam

For Respondents: Mr.C.Uma Shankar for R1

Mrs.A.Srijeyanthi

Special Govt. Pleader for R2 and R3



JUDGMENT

(Judgment was delivered by V.RAMASUBRAMANIAN, J)

WEB COPY

The writ appeal arises out of an order passed by the learned Judge allowing the claim of the first respondent herein for an appointment to his son in the appellant mill on the ground that he had sold the land for the formation of the Co-operative Sugar Mill.

2. Heard Mr.S.Siva Shanmugam, learned counsel for the appellant and Mr.C.Uma Shankar, learned counsel for the first respondent.

3. On 22.07.1983, the land of an extent of about 39 cents in S.Nos.66/20 and 66/15, in Thiruvalangadu Village, Tiruttani Taluk was sold by one Kuppammal, her husband Maniyappa Reddy, their son Sabarathinam (who is the first respondent herein) and the minor son of the first respondent herein to the appellant mill. It was a sale by private negotiation and it did not come within the purview of the Land Acquisition Act, 1894.

4. After the sale, the first respondent's mother Kuppammal made a representation for giving employment to her son-in-law in the Co-operative Sugar Mill on the ground that she belonged to the category of displaced persons. But the claim of the first respondent's mother Kuppammal was rejected by the Government by an order G.O.No.1095, Industries (MIO 2) Department, dated 06.10.1990. Incidentally the claims of three other persons were also rejected by the very same Government Order. Neither the first respondent's mother nor the first respondent challenged the said Government Order G.O.Ms.1095 dated 06.10.1990.

5. However, the first respondent's mother made a representation on 29.01.2001 (after 11 years of the Government Order rejecting her claim) seeking appointment to her grandson (the son of the first respondent herein). Thereafter Kuppammal filed a writ petition W.P.No.4073 of 2001 seeking only a mandamus to direct the respondents therein to consider and pass orders on her claim. This writ petition was disposed of by an order dated 18.08.2008, directing the Administrator of the appellant mill to consider and pass orders on the representation of Kuppammal within twelve weeks.

6. But unfortunately none of the parties brought to the notice of this Court that Kuppammal had passed away on 26.12.2005 itself. Therefore the order passed by this Court on 18.08.2008, could not have been enforced.

7. But a legal notice was issued on 14.09.2008 in the name of Kuppammal herself calling upon the appellant to implement the



order of this Court. Since there was no response, another legal notice was issued on 03.10.2009, this time in the name of the first respondent, seeking appointment to the son of the first respondent.

WEB COPY

8. This legal notice was treated as a representation and the appellant rejected the same by an order dated 28.10.2009.

9. As against the said order rejecting his claim for the appointment of his son, the first respondent filed a writ petition in W.P.No.247 of 2010. The writ petition was allowed by a learned Judge by an order dated 02.04.2012 directing the appellant to provide employment to the first respondent's son. Aggrieved by the said order, the mill is before this Court.

10. At the outset we are constrained to point out that the land of the first respondent and his family members was not acquired under the provisions of the Land Acquisition Act, 1894. It was a sale which was completely outside the purview of the Act and had taken place through private negotiation. Neither the first respondent nor his mother relied upon any promise given by the appellant at the time of purchase of the property. The sale deed itself was executed on 22.07.1983 and a period of more than 31 years has now gone.

11. The entire claim of the first respondent and his mother was based upon two things, namely 1) the Government order in G.O.Ms.No.656, Labour and Employment Department, dated 29.06.1978 and 2) the appointments given to other persons by the appellant and the appointments given by the other Sugar Mills to various persons.

12. But a careful look at G.O.Ms. No.656, Labour and Employment Department, dated 29.06.1978 would show that the Government was concerned primarily with the members of the families whose lands were acquired for Government purposes and about the land owners who got displaced as a result of their acquisition. The Government order did not deal with the sale of lands by private negotiations completely outside the purview of the Land Acquisition Act. In any case, the Government order stipulated certain conditions even for those whose lands had been acquired to be eligible for appointment. One of the conditions is that such a person should have actually become displaced on account of the acquisition.

13. Therefore apart from the fact that the benefit of the Government order does not apply to sale by private negotiations outside the purview of the Act, the Government Order also contains certain prescription not entitling everyone of the vendors to the benefit. Therefore the contention based upon the Government Order cannot be accepted.



WEB COPY

14. Insofar as the second contention is concerned, it is seen from G.O.Ms.No.1095 dated 06.10.1990 that the claims of several other persons apart from the first respondent's mother were also rejected by the Government. Therefore the first respondent cannot claim parity of treatment with every other person who got employment. Some persons have been given appointments. But it remains a matter of fact that some others were also not given. The first respondent and his mother were among those persons who were not granted employment.

15. In any case, private parties who sold their lands to the Government or to the Public Sector Undertakings through private negotiations outside the purview of the Act, cannot claim a right to appointment. Such a right to stake claim should arise out of any scheme framed while issuing a notification for acquisition. Alternatively, it should at least be a compulsory acquisition making an unwilling party to part with his land.

16. The moment a sale takes place outside the purview of the Act through private negotiation, the relationship between the parties would be governed only by the terms of the contract. In matters relating to contracts, the applicability of the principle of equality, is in great doubt. Therefore the first respondent cannot claim parity.

17. Moreover on facts it is seen that the claim made by the first respondent's mother was rejected by the Government by an order passed way back in 1990. Therefore if at all the first respondent's mother or the first respondent had a right of remedy, the same should have arisen out of the order of rejection. The first respondent was also one of the vendors to the sale deed along with his mother. He allowed his mother to make a claim for the brother-in-law. The rejection order of the Government was never challenged for 11 years. In 2001, Kuppammal shifted gear and asked for appointment to the first respondent's son. It is only after her death, the first respondent has jumped into the bandwagon. Therefore it is a case where neither the first respondent nor his son can be said to have any legal right to seek employment in the appellant mill. Where there is no legal right, there can be no remedy. Therefore, the relief granted by the learned Judge to the first respondent, cannot be traced to any scheme of promise.

18. The claim made by the first respondent for his son was also a belated claim. As a matter of fact, a Division Bench of this Court had considered the right of persons seeking employment on the basis of G.O.Ms.No.656, Labour and Employment Department, dated 29.06.1978 in Nuclear Power Corporation of India Ltd., Vs. Heirlin Jeya Sutha reported in 2007 (5) CTC 839. The Division Bench held that even persons whose lands were acquired, had no right to claim preferential treatment in the matter of employment. The claim of the first respondent cannot be better placed than the persons whose lands were acquired.



WEB COPY

19. In view of the above, the writ appeal is allowed and the order dated 02.04.2012 made in W.P.No.247 of 2010 is set aside. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

gpa

To

1. The Secretary
Industries Department
Fort St. George
Chennai - 600 009
2. The Commissioner of Sugar
No.474, Anna Salai, Nandanam
Chennai - 600 035
3. The Administrator
Tiruthani Co-Operative
Sugar Mills Limited
Thiruvalangadu
Chengalput District

1 cc to Mr.C. Umashankar, Advocate, Sr. 18306
1 cc to Mr.S. Sivashanmugam, Advocate, Sr. 17745

W.A.No.8 of 2013 &
M.P.No.1 of 2013

SSI (CO)
kk 11/4