

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2015

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH

W.P.No.25415 of 2001

- 1.Avudai Ammal (Deceased),
W/o Late Venkata Subbiah Thevar,
8/7, Post Office Road, Vallanadu,
Tuticorin District.
- 2.Subbulakshmi,
D/o Late Venkata Subbiah Thevar
- 3.Venkataraman,
S/o Late Venkata Subbiah Thevar
- 4.Balasaraswathi,
D/o Late Venkata Subbiah Thevar
- 5.Bagya Lakshmi
D/o Late Venkata Subbiah Thevar
- 6.Gopala Krishnan,
D/o Late Venkata Subbiah Thevar
(P2 to P6 substituted as LRs in the place of
sole deceased petitioner as per order dt.28.06.13
by TRJ in WPMP.158/13 in W.P.25415/2001)

... Petitioner

Vs.

1. The Tahsildar,
Srivaigundam,
Tuticorin District.
2. The State of Tamil Nadu,
Rep. By its Secretary,
Revenue Department, Secretariat,
Chennai-9.
3. The District Collector,
Tuticorin District,
Tuticorin.

... Respondents

Petition is filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the distrained order issued by the first respondent in his proceedings in A.1/1305/2001 dated 10.09.2001, quash the same and consequently, forbear the respondents from in any way interfering with the petitioners' occupation of the land in S.No.397 in Vallanadu Village, Srivaikuntam Taluk till the disposal of the representation made by the petitioner dated 22.2.2000 to the District Collector, Tuticorin.

For Petitioner : Mr.V.Subramanian for
M/s MCGAN Law Firm

ORDER

The facts involved in this case are very clear. The petitioner's husband was granted permission to cultivate the lands in Survey No.397/7 etc., totalling an extent of 3.71 acres as kalam poramboke in Vallanadu Cusba Village, Srivaikuntam Taluk, Srivaikuntam. As per the proceedings of the Tahsildar dated 30.06.1944, the permission in the form of licence was granted for a period of two years. It has been stated that he has no preferential claim for assignment on the expiry of the said period.

2. As the petitioner's husband had neither vacated the lands nor paid the amount, proceedings have been initiated to evict him. Later he applied for assignment. A decision was taken by the Government to initiate action for assignment of 1.03 acres of land out of 3.71 acres after collecting two times of market value and evict the petitioner's husband from the remaining area. Further, on 05.08.1995 he submitted an application stating that he is ready to hand over his patta land to an extent of 3.75 acres in Survey No.504 in exchange of the Government land in his possession.

3. While rejecting the said request, lease was granted for a period of three years at the rate of 7% of the market value in and by the order dated 15.11.1990. It was duly informed to the petitioner, who was requested to remit the lease amount.

4. The petitioner neither paid the amount nor vacated the land. Distraint proceedings have been initiated for the recovery of the lease amount due from the petitioner. Challenging the said order, the present writ petition has been filed.

5. The learned counsel appearing for the petitioner submitted that the Division Bench of this Court in W.A. No.578 of 2000 by an

order dated 03.04.2000 directed the respondents to consider the representation of the petitioner. Without considering the same, the distraint order has been passed.

6. This Court is not inclined to accept the said submission. Admittedly, the petitioner has not paid the lease amount. In the Counter affidavit it has been stated that the petitioner's request has been considered and rejected. Be that as it may, even assuming that the petitioner's request has not been considered, the same cannot be a ground for her in not paying the arrears of lease amount. Nobody forces the petitioner to take the land on lease. When admittedly, the land belongs to the Government, the petitioner cannot hold on to it without paying any lease amount. A perusal of the counter affidavit would show that the petitioner was having other lands also and having sufficient means to pay. The request made by the petitioner's husband was also rejected for exchange of land. The said fact alone would show the financial condition of the petitioner. This Court does not find any equity in favour of the petitioner, who is squatting on the Government property without even making any payment and enjoying the same.

7. For the foregoing reasons, the writ petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CO)

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To

Sub Assistant Registrar

1. The Tahsildar,
Srivaigundam,
Tuticorin District.

2. The Secretary, State of Tamil Nadu,
Revenue Department, Secretariat,
Chennai-9.

3. The District Collector,
Tuticorin District, Tuticorin.

+lcc to M/s Mcgan Law Firm, Advocate, S.R.No.49169

W.P.No.25415 of 2001

KJI (CO)
CA(30/09/2015)