

IN THE HIGH COURT OF JUDICATURE AT MADRAS

CAV ON 20/08/2015

DATED: 29/01/2016

CORAM

THE HONOURABLE **MR.JUSTICE C.S.KARNAN**

W.P.No.23531 of 2015
and
M.P.Nos.1 and 2 of 2015

V.N.Palaniappan

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Revenue Department,
Fort St.George,
Chennai-600 009.
- 2.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Housing and Urban Development Department,
Fort St.George, Chennai-600 009.
3. The Director cum Special Officer,
Tamil Nadu Boodhan Board,
Chennai-600 005.
- 4.The Special Secretary,
Commissioner of Land Reforms,
Tamil Nadu Boodhan Board,
Chennai-600 005.
- 5.The District Collector,
Collectorate Complex,
Coimbatore District,
Coimbatore.

6. The District Revenue Officer,
Coimbatore District,
Coimbatore.

7. The Tahsildar,
Taluk Office-North,
Coimbatore District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for a Writ of Declaration, to declare the petitioner as owner in respect of the land comprised in Survey No.20, measuring an extent of 2.51 acres situated at Vellaikinaru Village, Coimbatore (North) Taluk, Coimbatore District and consequently direct the respondents to re-assign / re-allot the lands with power of alienation, comprised in Survey No.20, measuring an extent of 2.51 acres situated at Vellaikinaru Village, Coimbatore (North) Taluk, Coimbatore District in favour of the petitioner.

For Petitioner : Mr.N.Sureshkumar

For Respondents : Mr.M.S.Ramesh
Addl. Govt. Pleader

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ORDER

The petitioner has submitted that the "Boodhan Yagna Movement" was launched by "Boojya Acharya Vinobha Bhave" with the object of accepting the lands donated by the philanthropists and landlords with a generous intention of distributing such lands to the landless poor with certain conditions. The petitioner has further submitted that accordingly, the Tamil

Nadu Bhoodan Yagna Act, 1958 was enacted and the lands as donated by third parties shall be distributed to the landless poor and community purpose and to provide in Gramdan Villages for the vesting of lands in the Management of those lands by the Sarvodaya Panchayat in the State of Tamil Nadu. The landless person means, a person who either is not a owner of land or a owner of land which does not exceed the limits prescribed in this behalf and whose annual income does not exceed three hundred rupees (such sum not exceeding five thousand rupees as may be prescribed - Amended Act 37/2000).

2. The petitioner has further submitted that the lands comprised in Survey No.20, measuring an extent of 2.51 acres situated at Vellaikinaru Village, Coimbatore (North) Taluk, Coimbatore District have been allotted by the Tamil Nadu Boomidhan Board, Coimbatore vide documents dated 27.12.1967 to and in favour of his mother Velammal for the purpose of developing the underprivileged people in the society. His mother Velammal died on 05.08.2002 and after her life time, the petitioner and his family members are in possession and enjoyment of the said properties. The petitioner has further submitted that a certificate has been issued by the Village Administrative Officer, Vellaikinaru, Coimbatore (North), dated 28.07.2005 stating that the deceased Vellammal's legal heirs are doing agriculture in the above said lands. The petitioner has further submitted that

the lands have been allotted under the Bhoomidhan Scheme to the underprivileged people specifically to the Schedule Caste and Tribe to augment their life standards. And more so, the G.O.Ms.No.2078 (Rev), dated 27.12.1984 has also prescribed the prior permission from the District Collector of the respective Districts.

3. The petitioner requested the respondents to re-assign/re-allot the said lands in his name with the power of alienation and for which, he undertakes to pay the cost of the land, it will benefit for his family's livelihood. Moreover their predecessors and they are in possession for more than 50 years and are cultivating the lands for their livelihood. Hence, the petitioner has filed the above writ petition.

4. The learned counsel Mr.N.Sureshkumar appearing for the petitioner has submitted that the "Bhoodan Yagna Movement" was launched by Vinobha Bhave, with the object of accepting the lands donated by the philanthropists and landlords with a generous intention of distributing such lands to the landless poor agriculturists with certain conditions. To that effect, Tamil Nadu Bhoodan Yagna Act was enacted in the year 1958. Accordingly, third parties donated lands to the Bhoodan Yagna Movement. The said administration was maintained by the Sarvodaya Panchayat in the state of Tamilnadu. The beneficiaries annual income should not exceed Rs.300/-

initially, now Rs.25,000/- as per the amendment Act, 2000. The lands comprised in Survey No.20 to an extent of 2.51 acres, situated at Vellaikinaru Village have been allotted by the Tamilnadu Bhoomidan Board under the relevant documents dated 27.12.1967 to and in favour of the late father of the petitioner for the purpose of developing the underprivileged people in the Society.

5.After the death of the beneficiary / allottee / the father of the petitioner, the legal heir of the allottee is enjoying the said property by way of cultivation by the family members. The said lands has been specifically allotted to the Scheduled Caste and Scheduled Tribe to augment their life standard. To that effect, G.O. also has been issued. The petitioner made representation to the respondents to reassign the lands in the name of petitioner with the power of alienation and for which the petitioner undertakes to pay the cost of the land and it will be beneficial to his family. Further, the petitioner and his family members are in possession for more than 50 years and cultivating the land for their livelihood. Further, the patta also stands in the name of the father of the petitioner. It clearly proves that the petitioner, as of now, is in physical possession and enjoying the same. Hence, the very competent counsel entreats the Court to direct the respondents to reassign the subject lands in favour of the petitioner.

6. Further, the writ petitioner has filed supplementary application in M.P.No.1 of 2015 to implead the 9th and 10th respondents namely the Chairman, Tamil Nadu Housing Board and the Special Tahsildar, Land Acquisition, attached to the Tamil Nadu Housing Board, as necessary parties.

7. The highly competent Additional Government Pleader, Mr.M.S.Ramesh, appearing for the respondents submits that the father of the petitioner was allotted the subject lands on 27.12.1967, after imposing 7 conditions, stating that the subject lands shall not be alienated or gifted or leased out to third parties. Further, the allottee / assignee shall pay necessary mandatory taxes to the statutory authorities. Another important condition was that the assignee, if not cultivating the said lands continuously within three consecutive years, then the same will be transferred to some other eligible person. In the instant case, the said land has not been cultivated. As such, the same has been classified as "Tharisu". As such, the father of the petitioner has committed breach of conditions mentioned in the assignment order. Now, the petitioner is seeking power to alienate the said lands for the benefit of the livelihood of his family. This request / prayer runs against the first condition laid down in the Tamilnadu Bhoodan Yagna Act, as well as that mentioned in assignment order. Therefore, the petitioner's prayer is not maintainable. The petitioner has also filed additional application in M.P.No.1 of 2015 to include the 9th and 10th as proposed respondents namely the

Chairman and Managing Director, Tamil Nadu Housing Board and the Special Tahsildar, Land Acquisition, who are both attached to the second respondent's office. Therefore, the second respondent's office and all the respondents including proposed respondents are attached to the State Government. Besides, all are travelling on the same boat. Therefore, the supplementary application in M.P.No.1 of 2015 is not appropriate. Accordingly, the amendment petition also is not maintainable. Hence, the very competent counsel has made a deep request to dismiss the above writ petition.

8. On considering the facts and circumstances of the case and arguments advanced by the highly competent counsels on either side and on perusing the typed set of papers, it is evident that as the Bhoomidan Land deed dated 27.12.1967, had been executed in favour of the petitioner's father, wherein the first condition was that the assignee shall not alienate, gift or lease out to third parties, the petitioner in his prayer, has sought power to reassign the land with the power of alienation, which runs against the first condition of Bhoodan Land Act. As such, the writ petition is not maintainable. Further, the writ petitioner has not disclosed details regarding when the subject lands have been taken over by the Government from the father of the petitioner or the petitioner herein.

9. Therefore, the above writ petition does not merit

consideration and hence it is dismissed. The supplementary application in M.P.Nos.1 and 2 are also closed, since the 9th and 10th respondents are also attached to the respondents 1 to 7 and hence, the impleading petition is not maintainable. No costs.

29/01/2016
(2/4)

Index : Yes.
Internet : Yes.

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C.S.KARNAN, J.
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Pre Delivery Order made in
W.P.No.23531 of 2015
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