

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2016

CORAM

THE HONOURABLE MR.JUSTICE N. KIRUBAKARAN

W.P. No. 29170 of 2016

&

W.M.P. No. 25223 of 2016

Anzar Begam

..Petitioner

Vs.

1. The District Collector,
Puducherry.
 2. The Deputy Collector (Rev) North,
cum Authorised officer under ULC,
Puducherry.
 3. The Thasildar,
Taluk Office,
Oulgaret,
Puducherry.
- ..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent pertaining to his proceedings no. 836/DCR (N)/PGR Cell/ULC/C2/2015/3513 dated 24.11.2015 and quash the same and consequently direct the respondents to consider the petitioner's representation dated 06.01.2016 in accordance with law.

For Petitioner :: Mr.K.S. Karthik Raja

For Respondents:: Mrs. Reena Iswariya,
Addl. Govt. Pleader
(Pondy)

O R D E R

The petitioner is said to be a person, who lost her property under the Urban Land Ceiling Act, as early as in the year 1986. The petitioner's husband and his brothers, had purchased properties, in the name of the petitioner's husband, to an extent of 1 Kani, 10 Kuzhis and 15 veesams in R.S. No. 142/6 in Village No. 38, in Saaram Revenue Village, Puducherry. The Government of Puducherry acquired some portion of the above said land as excess land under the Urban Land Ceiling Act and took possession of the same. To thwart the efforts of the authorities, two of the petitioner's brothers-in-law, ie., brothers of the petitioner's husband, filed a suit in O.S. No. 614 of 1986, before the Principal Sub Judge, Pondicherry, wherein the petitioner's husband was arrayed as first defendant, another brother as second defendant, and Union of India, was also made as a party to the said suit. The suit was filed seeking a preliminary decree in favour of the plaintiffs therein conferring half share of the suit property with absolute right and title in possession, to declare that the final orders of the 3rd defendant therein as not binding on the plaintiffs' share of the suit property and by judgment dated 30.06.1986, a preliminary decree was passed in favour of the plaintiffs. Based on the said decree, the petitioner, after the death of her husband, claims one-fourth share in the entire properties and in this regard, she has also made representations to the respondents. The 2nd respondent, by communications dated 12.06.2015 and 18.11.2015 directed the 3rd respondent to take action and to file a report. When things stand so, without any reference to any action taken by the 3rd respondent and without even waiting for the report from the 3rd respondent, the impugned order has been passed by the 2nd respondent stating that the lands referred above were covered under the Urban Land Ceiling Act and that the same was utilised by distributing them to landless people as LGR patta. Challenging the said order, the petitioner has come before this Court.

2. Heard Mr.K.S. Karthik Raja, learned counsel for the petitioner and Mrs. Reena Iswariya, learned Additional Government Pleader (Puducherry) for the respondents.

3. A perusal of the records would show that the land in question was acquired as early as in the year 1986 under the Urban Land Ceiling Act and possession was also taken. Based on the preliminary decree passed in O.S. No. 614 of 1986 on 30.06.1986, the petitioner is now making a claim stating that the land has not been utilised. Though Mr.K.S. Karthik Raja, learned

counsel for the petitioner would assail the impugned order stating that no opportunity was given and without getting any report from the 3rd respondent, the 2nd respondent has hastily passed the said impugned order, contrary to the facts, first of all, when the land has been declared as excess under the Urban Land Ceiling Act, the suit for partition itself is not maintainable. Further, based on a preliminary decree, passed in the year 1986, the petitioner is now claiming a right over the acquired portion of land. It is not known whether final decree has been passed or not. From the impugned order, it is seen that the land was taken possession by the Government and was also utilised by distributing as LGR patta to landless people. Further, it is stated in the impugned order that the land was subdivided into many sub-divisions for assignment to landless people as house sites under Land Grant Rules and as such, there is no unutilised land to be restored to the petitioner. Hence, the claim of the petitioner cannot be accepted.

4. As far as the petitioner or even her husband is concerned, once the land has been acquired and possession has been taken under the Urban Land Ceiling Act, they have become strangers and their connection with the said property got snapped 30 years ago. By giving representations, the right, which is not at all in existence, cannot be created. Even assuming for a moment that the petitioner has got a right, the claim made by her is only a stale claim and therefore, the writ petition is not maintainable. The petitioner has not furnished even the details regarding the land ceiling proceedings and only the 3rd respondent has given the required details and categorically stated that possession has already been taken. Though Mr.K.S. Karthik Raja, learned counsel for the petitioner would submit that the petitioner is landless, it is not as if the entire land was taken over by the Government under the Urban Land Ceiling Act and only the land, which was declared as excess, was taken over. Therefore, the said contention of the learned counsel does not merit any acceptance. Hence, the writ petition fails and the same is dismissed. No costs. Connected W.M.P. is closed.

Sd/-
Assistant Registrar(CS VII)

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Sub Assistant Registrar

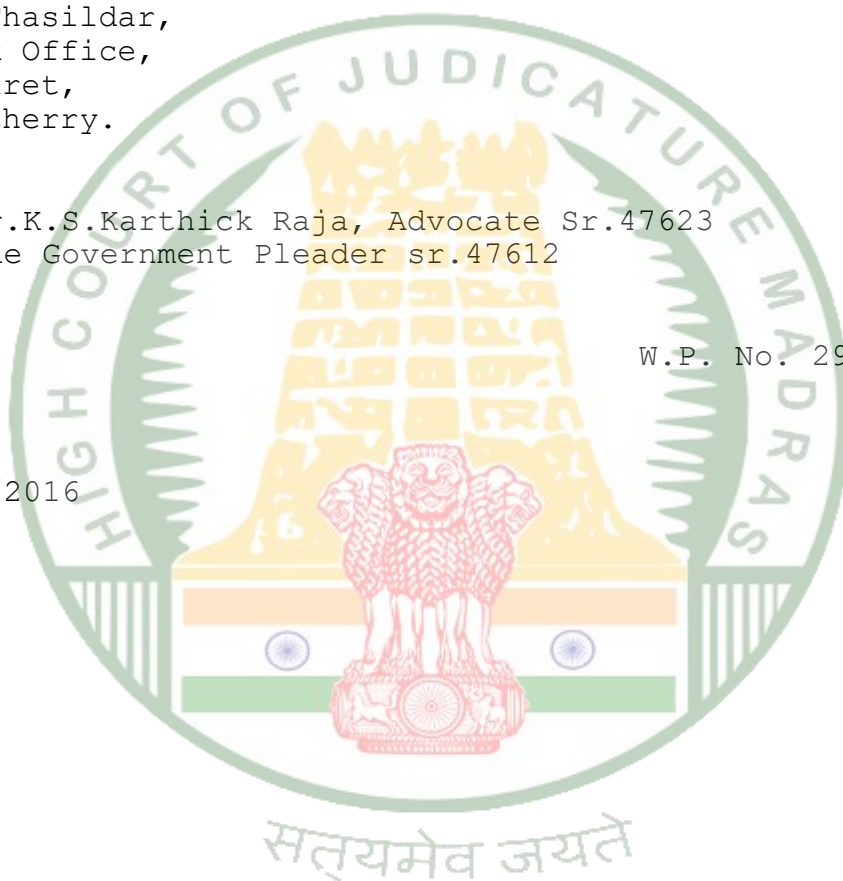
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To

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2. The Deputy Collector (Rev) North,
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3. The Thasildar,
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Oulgaret,
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+1cc to Mr.K.S.Karthick Raja, Advocate Sr.47623
+1cc to the Government Pleader sr.47612

W.P. No. 29170 of 2016

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