IN THE HIGH COURT OF JUDICATURE AT MADRAS

CAV ON : 22/09/2015
DATED : 12/01/2016

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.19450 of 2010

Mr.S.G.Sundaramurthy ... Petitioner

Vs.

1. The Secretary to Government,
   Revenue Department,
   Secretariat, Fort St. George,
   Chennai-600 009.

2. The Principal Commissioner and
   Commissioner of Land Reforms,
   Ezhilagam, Chepauk,
   Chennai-600 005.

3. The Joint Commissioner (In charge),
   Land Reforms,
   Villupuram.

4. The Collector of Kancheepuram,
   Collectorate of Kancheepuram,
   Kancheepuram. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for a Writ of Certiorari, to call for the records pertaining to the proceedings dated 28.06.2010 vide M.R.4/Aa1/48/17-70, Maduranthakam on the file of the third respondent and quash the same.

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For Petitioner : Mrs.S.Umamaheswari

For Respondents : Mr.P.Karthikeyan
Government Advocate

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O R D E R

The petitioner has submitted that the third respondent passed an order dated 28.06.2010 vide M.R.4/Aa1/48/17-70, Maduranthakam and wherein it has been stated that an extent of 28.99 acres of land situated at Peruvel Madura Saravambakkam Village, Maduranthakam Taluk, Kancheepuram District from the holdings of one Konda Reddy was declared as surplus. The surplus lands were entered in the Form-A Register and then it was stated therein that already an extent of 27.49 acre was assigned. Further, for the remaining land to an extent of 1.50 acres, a public notice in Form No.B inviting applications for assignment was issued and in pursuance thereof as many as 127 persons applied for assignment in Form No.C. The Authorized Officer caused public notice in Form No.D on 15.03.2010. The Authorized Officer conducted an enquiry on 06.04.2010 in which 26 persons did not attend and for the remaining 101 persons enquiry was conducted and as per the enquiry findings only 15 persons as mentioned in the list in Annexure II were declared as qualified for assignment and 71 persons as mentioned in the list of Annexure I were declared as unqualified and 15 persons though qualified were not assigned any land for want of surplus land.

2. The petitioner has submitted that on 27.10.1980, the then Special Tahsildar, Kancheepuram passed an order, wherein the above said remaining land of 1.50 acres were not assigned to anyone for the reasons that the said land was liable to submersion in the Saravambakkam Village lake and assignment of the same would be detrimental to the lake and the assignees could not cultivate the same if assigned. Since the year 1980, the said lands were kept for the purpose of lake water storage and irrigation for the adjoining agricultural lands and the village people are using the water on the said land for irrigation purposes for the past 30 years. The petitioner has further submitted that till date, the patta for the said remaining land of 1.50 acre in Survey No.157/2 stands in the name of the original owner Konda Reddy.

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3. The petitioner has further submitted that while so, the third respondent without any valid reasons and without supporting Government Orders arbitrarily and without applying mind passed the above said impugned order and even in the said assignment there are lots of lapses and the enquiry was not properly conducted and no reasonable opportunity was given to the applicants. The petitioner has further submitted that the above said order of assignment of surplus lands is liable to

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be cancelled as it was made under a mistake of fact and also based on the mis-representation or fraud played by some applicants and further there was an irregularity in the procedure. Hence, the petitioner has filed the above writ petition.

4. The learned counsel appearing for the petitioner has submitted that the third respondent had passed an order in his proceedings, dated 28.06.2010, and declared the lands to an extent of 28.99 Acres, situated at Peruvel Madura Saravambakkam Village, from the holding of one Konda Reddy as surplus lands. Out of the said surplus lands, an extent of 27.49 Acres of land was already assigned to various individuals. Subsequently, for the remaining land to an extent of 01.50 Acres, a public notice in Form No.B, inviting applications for assignment, was issued and in pursuance thereof, about 127 persons applied for assignment in Form No.C. The authorised officer had conducted an enquiry, in which 26 persons did not attend the enquiry and the rest of them participated in the said enquiry. After enquiry, 15 persons were declared as unqualified for assignment and the other 71 persons were declared as unqualified. The 15 qualified persons have not been assigned any land for want of surplus lands. Under the circumstances, the Special Tahsildar, Kancheepuram, had passed an order, wherein the above said remaining land, to an extent of 01.50 Acres, was not assigned to anyone for the reason that the said land was liable to submersion in the Saravambakkam Village lake and the assignment of the same would be detrimental to the lake and assignees could not cultivate the same if it is assigned. Further, the said land is for the purpose of lake water storage. The village people are using the water for irrigation purpose for the past 30 years. Above all, Patta stands in the name of erstwhile owner, Konda Reddy. The third respondent passed the impugned order without conducting any enquiry. As such, the arbitrary order is liable to be cancelled, since the subject land is required for the purpose of lake water storage for irrigation purpose.

5. The learned Government Advocate appearing for the respondents has submitted that it is an admitted fact that the respondents had acquired lands to an extent of 28.99 Acres from one Konda Reddy as surplus lands. Out of which, 27.49 Acres of land was already assigned to various persons and for the remaining land to an extent of 01.50 Acres, a publication was given in order to assign the same to eligible persons. The eligible persons, numbering 15, have been allotted 1.50 Acres. Further, the third respondent had directed the

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beneficiaries to remit the cost of the assigned land. The respondents had duly conducted enquiry and selected the beneficiaries. Furthermore, all the beneficiaries are belonging to Hindu Adi Dravidar Community, poor agricultural labourers, involved in the agricultural operations and they are depending upon their respective allotted lands for their livelihood. For all these reasons, the learned Government Advocate has prayed for dismissal of the writ petition.

6. On considering the facts and circumstances of the case, arguments advanced by the learned counsel on either side and on perusing the typed set of papers, this Court is of the view that the surplus lands were vested with the original owner Konda Reddy and at that point of time the petitioner had not raised any objection to enjoy the subject matter of land for the purpose of cultivation. After acquiring the surplus lands, the same was allotted to various private individuals, who are belonging to the Adi Dravidar Community. Now, they are using the allotted lands for the cultivation purpose and the same has already been done by the erstwhile owner. Further, the third respondent, after observing all the necessary legal formalities, as per the Tamil Nadu Land Reforms Act, has passed the impugned order and as such there is no lapse on the part of the respondents. Further, the beneficiaries are belonging to Adi Dravidar Community, whose ancestors and the beneficiaries had never held any immovable property and only now they have got cultivable lands by way of assignment from the Government. Now, the beneficiaries / assignees and their respective family members have some support in their life as they are having immovable properties and also depending on that for their livelihood. In such circumstances, the writ petition does not generate sufficient force to allow it and the same is therefore liable to be dismissed.

7.In the result, the writ petition fails and it is dismissed. No costs.

Sd/-
Assistant Registrar(CS V)

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Sub Assistant Registrar

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To:

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