



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.04.2016

CORAM

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THE HONOURABLE MR. JUSTICE B. RAJENDRANW.P (MD) Nos.16887 to 16892 of 2015
andM.P. (MD) .Nos.1 and 2 of 2015 and
W.M.P. (MD) .Nos.619 to 624 of 2016

W.P. (MD) .No.16887/2015

M. Chellamani

.. Petitioner

Versus

1.The State of Tamil Nadu,
rep.by its Secretary to Government
Revenue Department,
Fort.St.George, Chennai.2.The District Collector,
Madurai District, Madurai.3.The Revenue Divisional Officer,
Madurai District, Madurai.4.The Tashildar,
Madurai South,
Madurai District, Madurai.

.. Respondents

WP No. 16887 of 2015:- Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the third respondent in Na.Ka.No.14752/2007/C, dated 03.08.2015 and quash the same as illegal and consequently forbear the respondents from in any way evicting the petitioner from their land in Old Survey No.994/1A, T.S. No. 116, Arapalayam Main Road, Madurai.

WP(MD) No.16888 of 2015

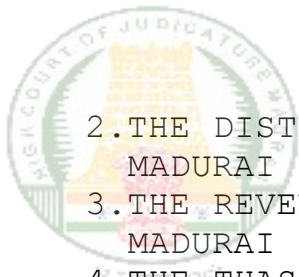
DHANAM

... PETITIONER

Vs

1.THE STATE OF TAMIL NADU,

<https://hcservices.gov.in/hcservices/> SECRETARY TO GOVERNMENT., REVENUE DEPARTMENT,
FORT ST.GEORGE, CHENNAI



2.THE DISTRICT COLLECTOR
MADURAI DISTRICT, MADURAI
3.THE REVENUE DIVISIONAL OFFICER
MADURAI DISTRICT, MADURAI
4.THE THASILDAR,
MADURAI SOUTH, MADURAI DISTRICT,
MADURAI

... RESPONDENT

Prayer in WP(MD)No.16888/2015:-

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for records relating to the impugned order passed by the 3rd Respondent in Na.Ka.No.14752/2007/C, dated 03.08.2015 and quash the same as illegal and consequently for bear the respondents from in any way evicting the petitioner from their land in Old Survey No.994/1A, T.S.No.116, Arapalayam Main Road, Madurai.

WP(MD) No.16889 of 2015

P.VIJAYA LAKSHMI

... PETITIONER

Vs

1.THE STATE OF TAMIL NADU
REP. BY ITS SECRETARY TO GOVERNMENT., REVENUE DEPARTMENT,
FORT ST.GEORGE, CHENNAI.
2.THE DISTRICT COLLECTOR
MADURAI DISTRICT, MADURAI.
3.THE REVENUE DIVISIONAL OFFICER
MADURAI DISTRICT, MADURAI.
4.THE TAHSILDAR
MADURAI SOUTH, MADURAI DISTRICT,
MADURAI.

... RESPONDENTS

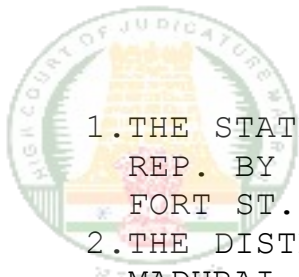
Prayer in WP(MD)No.16889/2015:-

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for records relating to the impugned order passed by the 3rd respondent in Na.Ka.No. 14752/2007/C, dated 03.08.2015 and quash the same as illegal and consequential forbear the respondents from in any way evicting the petitioner from their land in old survey No. 994/1A, T.S.No. 116, Arapalayam Main Road, Madurai.

WP(MD) No.16890 of 2015

M.MUTHULAKSHMI

... PETITIONER



1. THE STATE OF TAMIL NADU
REP. BY ITS SECRETARY TO GOVERNMENT., REVENUE DEPARTMENT,
FORT ST. GEORGE, CHENNAI.
 2. THE DISTRICT COLLECTOR
MADURAI DISTRICT, MADURAI.
 3. THE REVENUE DIVISIONAL OFFICER
MADURAI DISTRICT, MADURAI.
 4. THE TAHSILDAR
MADURAI SOUTH, MADURAI DISTRICT,
MADURAI.
- ... RESPONDENTS

Prayer in WP(MD)No.16890/2015:-

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for records relating to the impugned order passed by the 3rd respondent in Na.Ka.No.14752/2007/C, dated 03.08.2015 and quash the same as illegal and consequently forbear the respondents from in any way evicting the petitioner from their land in Old Survey No.994/1A, T.S No.116, Arapalayam Main Road, Madurai.

WP(MD) No.16891 of 2015

P.SUNDARI ... PETITIONER

Vs

1. THE STATE OF TAMIL NADU
REP. BY ITS SECRETARY TO GOVERNMENT., REVENUE DEPARTMENT,
FORT ST. GEORGE, CHENNAI
 2. THE DISTRICT COLLECTOR
MADURAI DISTRICT, MADURAI
 3. THE REVENUE DIVISIONAL OFFICER
MADURAI DISTRICT, MADURAI
 4. THE THASILDAR,
MADURAI SOUTH, MADURAI DISTRICT,
MADURAI
- ... RESPONDENTS

Prayer in WP(MD)No.16891/2015:-

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for records relating to the impugned order passed by the 3rd Respondent in Na.Ka.No.14752/2007/C, dated 03.08.2015 and quash the same as illegal and consequently forebear the respondents from n any way evicting the petitioner from their land in Old Survey No.994/1A, T.S No.116, Arapalayam Main Road, Madurai.



WP (MD) No.16892 of 2015

THANAGAMMAL

... PETITIONER

Vs

1. THE STATE OF TAMIL NADU
REP. BY ITS SECRETARY TO GOVERNMENT., REVENUE DEPARTMENT,
FORT ST. GEORGE, CHENNAI.
 2. THE DISTRICT COLLECTOR
MADURAI DISTRICT, MADURAI.
 3. THE REVENUE DIVISIONAL OFFICER
MADURAI DISTRICT, MADURAI.
 4. THE TAHSILDAR
MADURAI SOUTH, MADURAI DISTRICT,
MADURAI.
- ... RESPONDENTS

Prayer in WP (MD) No. 16892/2015:-

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for records relating to the impugned order passed by the 3rd respondent in Na.Ka.No. 14752/2007/C, dated 03.08.2015 and quash the same as illegal and consequential forbear the respondents from in any way evicting the petitioner from their land in old survey No. 994/1A, T.S.No. 116, Arapalayam Main Road, Madurai.

For petitioner : Mr. M. Mahaboob Athiff
for all WP's

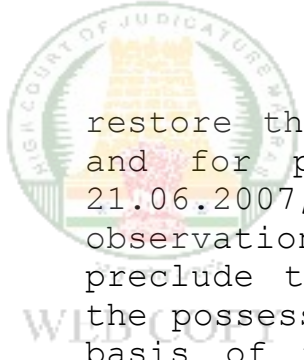
For respondents : Mr. N.S. Karthikeyan
Additional Government Pleader
in all WP's

COMMON ORDER

As the issue involved in all the writ petitions are inter-connected and common, they are taken up for hearing together and are disposed of by this common order.

2. The case of the petitioner in WP No. 16687 of 2015 is that she is in possession and enjoyment of the land bearing Survey No.994/1A, Aarapalayam Main Road, Melmadurai, Madurai District for about 45 years. The petitioner is residing there by putting up a construction on the above said land. While so, during the month of June 2005, the respondents started demolishing all the residential houses comprised in Survey No.994/1 indiscriminately without giving any notice or affording an opportunity of hearing. Immediately, the land owners have

Services of the Court in MD No. 6015 to 6024 of 2015 before this Court for a Writ of Mandamus to forbear the respondents from interfering with their possession and to issue a consequential direction to

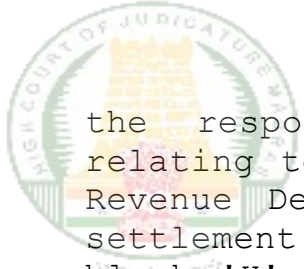


restore the building and structure as stood prior to demolition and for payment of compensation. By a common order dated 21.06.2007, this Court dismissed the writ petitions with an observation the the dismissal of the writ petition will not preclude the revenue officials to grant patta and to regularise the possession of the land owners in accordance with law. On the basis of the said order, the land owners have approached the Government seeking assignment of land. Considering the same, the Government passed an order in GO Ms. No.359, Revenue Department dated 29.09.2009 according sanction for assignment of lands in favour of 42 displaced land owners including the petitioner. Thereafter, the revenue officials also earmarked 52 cents of land in Survey No.994/1A and allotted 1 cent of land for each of the families and the remaining lands were earmarked for pathway and construction of temple. Thereafter, the fourth respondent also issued patta in his proceedings dated 20.07.2010. According to the petitioner, she is in possession and enjoyment of the superstructure put up thereon and also obtained electricity service connection.

3. According to the petitioner in WP No. 16687 of 2015, once again the respondents attempted to disturb her possession and threatened to demolish the building put up by her without any notice. Hence, the petitioner has filed WP (MD) No. 12894 of 2011 for issuing a Writ of Mandamus forbearing the respondents from in any dispossessing the petitioner from the dwelling house in Plot No.42, Survey No.994/1A, Arapalayam Main Road, Madurai. In the said writ petition, this Court granted interim injunction on 12.11.2011.

4. The grievance of the petitioner is that even though patta was granted in her favour and she has also put up a dwelling in the land in question, the patta granted to her was cancelled by the third respondent on 28.09.2001. Such an order of cancellation was also passed as against all the petitioners in this batch of case. Therefore, challenging the same, the land owners filed WP (MD) No. 12699 of 2011 before this Court and by order dated 03.04.2012, this Court allowed the writ petitions with an observation to conduct an enquiry after affording an opportunity of hearing and to render a specific finding as to whether the construction put up by the land owners is a commercial or residential building. In spite of such direction, without conducting any enquiry, the third respondent has passed an order dated 03.08.2015 cancelling the patta issued in favour of the petitioner purportedly on the basis a report dated 25.05.2015 of the Tahsildar, Madurai North. Therefore, challenging the order dated 03.08.2015 cancelling the patta granted in favour of the petitioner, WP No. 16887 of 2015 has

5. The respondents have filed a Petition for vacating the interim stay *inter alia* opposed the writ petitions. According to



the respondents, on completion of the settlement process, relating to Fasli year 1328, the records were handed over to the Revenue Department for maintenance on 26.04.1921. As per the settlement proceedings, the land in R.S. No. 994 was covered in block 'H' in the Village map and classified as 'dry poromboke'. Later, in Town Survey extract, the entire extent of 02140.0 square meters of land was classified as 'cemetery cum burning ghat'. As there were encroachments over the said public land, the encroachers were sought to be evicted. As against such action, WP (MD) No. 684 of 2005 and 689 of 2005 were filed before this Court and by order dated 02.02.2005, this Court directed the encroachers to be evicted. Similar writ petition in WP (MD) Nos. 6015 to 6024 and 7160 of 2005 filed by the encroachers were also dismissed on 21.06.2007, however, by granting liberty to the revenue authorities to consider granting assignment house sites in favour of the eligible persons. Having regard to such observation, the encroachers have approached the Madurai Municipal Corporation to assign them the land and the Corporation also passed a resolution to the effect that the corporation has no objection for grant of assignment vide Resolution No. 331 on 28.03.2008. As per the resolution, the second respondent submitted proposal to the Special Commissioner and Commissioner for Land Administration on 18.07.2008 for changing the classification of the land from 'grave yard' to 'natham' land to enable granting assignment to eligible persons. Accordingly, the Special Commissioner of Land Administration recommended the proposals by letter dated 27.03.2009 and the Government was also pleased to pass GO Ms. No.359, Revenue Department dated 29.09.2009 re-classifying an extent of 53 cents of lands in S.No.994/1A from 'burial ground' to 'poromboke' with a further direction to grant assignment of one cent of land to 42 encroachers, 9 cents for road (public purpose) and 2 cent to the temple located therein.

6. It is further stated in the counter affidavit that after assignment was made in favour of the encroachers, lot of complaints were received which resulted in an enquiry being conducted. On enquiry, it came to light that assignment was made to ineligible persons and out of the 42 beneficiaries, 8 have not received patta and the remaining 34 persons have not constructed houses even after lapse of one year violating the conditions of assignment. A field inspection was also conducted which revealed that none of the beneficiary out of 34 persons, who were granted patta have utilised the purpose for which assignment was granted. Therefore, show cause notices were issued calling upon the beneficiaries to submit their explanation as to why house site pattas granted to them shall not be cancelled. Even the notices could not be served since the whereabouts of most of the beneficiaries are not known. Thereafter, the Revenue Divisional Officer, Madurai cancelled the assignment granted to 42 individuals by way of proceedings dated 28.08.2011. As against

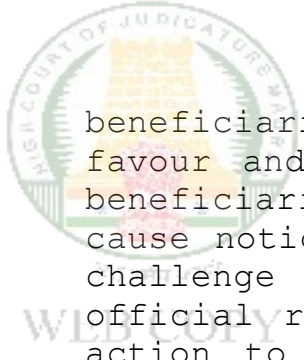


the same, WP Nos. 12895 of 2011 etc., batch have been filed and this Court, by order dated 03.04.2012, quashed the order dated 28.11.2011 with liberty to the official respondents to send a communication to the petitioners therein within two weeks directing them to appear for enquiry and thereafter to pass orders on merits. Similar order was passed by this Court on 03.04.2012 in another set of WP (MD) Nos. 20741 of 2013 etc., batch. As per the order passed by this Court, an enquiry was conducted by the official respondents in which due opportunity was granted to the beneficiaries of assignment, including the petitioners, to putforth their objections, if any.

7. It is further stated in the counter affidavit that the conditions attached to the order of assignment have been violated by the petitioners. None of the beneficiary is living in the land assigned to them. The lands have been assigned taking into consideration the claim made by the beneficiaries as though they were landless and without any place for dwelling. However, after assignment, the beneficiaries did not construct any house, one of the conditions attached with the order of assignment. The beneficiaries in whose favour land was assigned have their own lands within the City. Some of the assignees are employed in State and Central Government and they have suppressed the same while obtaining the order of assignment. Therefore, the respondents would contend that the order which are impugned in these writ petitions are in accordance with law and they do not call for any interference by this Court.

8. I heard the learned counsel for both sides and perused the materials on record. In all these writ petitions, the challenge is to the order dated 03.08.2015 passed by the third respondent cancelling the assignments granted in favour of the petitioners. Such an order came to be passed by the third respondent after issuing show cause notices to the petitioners and after conducting an enquiry in which the petitioners have participated. During the course of enquiry, the petitioners have submitted their objections and considering the same, the third respondent has passed the order cancelling the assignments made in favour of the petitioners.

9. It is seen from the affidavit filed in support of the vacate stay petitions that most of the beneficiaries, in whose favour assignments have been made by the official respondents, are either owning land within Madurai City or elsewhere but they are not landless poor. It is also brought to the notice of this Court that the beneficiaries are either employed in Central or State Government and therefore they ought not to have been granted assignment of lands. Further, it is pointed out that most of the beneficiaries in whose favour lands have been assigned either rented out the lands to third parties or leased it out to gain unlawfully. It is stated in the affidavit filed in support of the vacate stay petitions that most of the



beneficiaries are not residing in the lands assigned in their favour and therefore the show cause notices were served on the beneficiaries only by means of affixture. However, the show cause notices issued by the official respondent were subjected to challenge by the petitioners and others on the ground that the official respondents have not served any notice or the proposed action to be taken against the petitioners is in violation of principles of natural justice. Thereafter, at the instance of this Court, the petitioners were directed to appear for an enquiry and they have also appeared before the third respondent for an enquiry. At any rate, the impugned order of cancellation came to be passed after discreet enquiry conducted by the officials attached to the office of the third respondent and after issuing show cause notices to the petitioners. Pursuant to the direction issued by this Court in the earlier writ petitions filed by the petitioners, the official respondents also conducted an enquiry in which the petitioners have participated and submitted their objections for cancellation of the assignment.

10. It is seen from Para No.13 of the affidavit filed in support of the vacate stay petition that the petitioners have not constructed houses in the lands assigned in their favour and have violated the assignment condition. The third respondent, in the impugned order, has considered the above facts in detail and passed a speaking order. It is seen from the order passed by the third respondent that all the 42 beneficiaries in whose favour lands were assigned have violated the conditions to construct a house within a period of one year. In such view of the matter, I do not find any reason to interfere with the orders which are impugned in these writ petitions. The writ petitions are devoid of merits and therefore, they are dismissed. However, there shall be no order as to costs. Consequently, all the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

/True Copy/

Sub-Assistant Registrar

To

- 1.The Secretary to Government The State of Tamil Nadu,
Revenue Department, Fort.St.George, Chennai.
- 2.The District Collector, Madurai District, Madurai.
- 3.The Revenue Divisional Officer, Madurai District, Madurai.
- 4.The Tashildar, Madurai South, Madurai District, Madurai.
- +6 ccs to M/s.Ajmal Associates, Advocate, SR.No.25161
- +One cc to The Special Government Pleader, SR.No.25629
- ssm/rsh
- RL/12c/8P/DB/29/9/2016