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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.A.(MD) No.1131 of 2016

and

C.M.P.(MD) No.6982 of 2016

1.Nagamani

2.S.Paraniselvi

3.Thayammal

4.Jayalakshmi

5.Arasammal

6.Rajammal

...Appellants/Petitioners

-vs-

1.The District Collector

Madurai District

2.The District Revenue Officer

Madurai District

3.The Revenue Divisional Officer

Madurai

4.The Tahsildar

Madurai South Taluk

Madurai

...Respondents/Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 26.04.2016 made in W.P.(MD) No.17317 of 2015.

Prayer in WP(MD). 17317/ 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 the records of the 3rd Respondents impugned proceedings in Na.Ka.No.14752/2007/C dated 3.8.2015 and quash the same as illegal and consequently forbearing the Respondents in any manner interfering with the peaceful possession and enjoyment of the Petitioners plot numbers 10, 13, 14, 15, 16, and 47 comprised in Old survey No.994/1A, Ward No.5, Block No.33, T.S.No.116, Arappalayam Main Road, Madurai 625 016.

For Appellants : Mr.G.Prabhu Rajadurai

for Mr.V.Thirumal

<https://hcservices.ecourts.gov.in/hcservices/>

For Respondents : Mr.R.Velmurugan

Government Advocate

J U D G M E N T

[Judgment of the Court was made by M.SATHYANARAYANAN, J.]

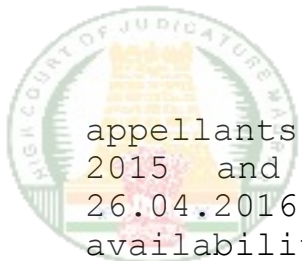
Mr.R.Velmurugan, learned Government Advocate, takes notice on behalf of respondents and with the consent of both sides, this writ appeal is taken up for final hearing at the admission stage itself.

2. The appellants claim that they are residing in Plot Nos.10, 13, 14, 15, 16 and 47 respectively, comprised in Old Survey No.994/1A, Ward No.5, Block No.33, T.S.No.116, Arapalayam Main Road, Madurai-625 016 and the said plots have been allotted to them by the fourth respondent, vide proceedings No.C3/23151/2007, dated 20.07.2010. According to the appellants, by the said proceedings, the fourth respondent has totally allotted 42 plots in favour of the beneficiaries, including them and it was in pursuance of a common order, dated 21.06.2007, passed by the Division Bench of this Court in a batch of writ petitions pertaining to removal of encroachment. The appellants claim to be in possession of the said plots for more than fifty years.

3. Further, the appellants would submit that during 2005, the revenue authority took steps to remove the encroachment, however, in the light of the common order passed by the Division Bench of this Court, the revenue authority decided to issue Patta in favour of the beneficiaries and forwarded a proposal to the Government for grant of Patta and accepting the same, the Government passed G.O.Ms.No.359, Revenue Department, dated 22.09.2009, and accorded sanction for assignment of lands to the 42 displaced persons. Subsequently, the fourth respondent issued Patta to them, vide proceedings, dated 20.07.2010. According to them, based on an anonymous complaint from some of the allottees and based on the report of the fourth respondent, the third respondent, without any verification and inspection, had cancelled the Patta issued by the fourth respondent in favour of the 42 beneficiaries, vide proceedings, dated 28.09.2011.

4. The appellants would further submit that one of the beneficiaries, namely, Shanthi challenging the cancellation of Patta, filed a writ petition, in W.P.(MD) No.12699 of 2011, and this Court, by order, dated 03.04.2012, set aside the said proceedings with a direction to the beneficiary to approach the third respondent and establish her right.

5. However, the third respondent, without taking note of the observations made in that writ petition, had passed the impugned proceedings, dated 03.08.2015, once again confirming the order cancelling the Patta. Challenging the legality of the same, the



appellants herein filed a writ petition in W.P.(MD) No.17317 of 2015 and the Single Bench of this Court, by order dated 26.04.2016, dismissed the writ petition on the ground of availability of revision remedy before the second respondent. Hence, this writ appeal.

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6. The learned counsel for the appellants has drawn the attention of this Court to the Judgment, dated 25.05.2016, passed in W.A.(MD) No.894 of 2016, wherein the Division Bench of this Court has directed the appellate authority to dispose of the appeal preferred by one of the affected beneficiaries, namely, Shanthi without being influenced by the order dated 21.04.2016, passed in W.P.(MD) No.15906 of 2015, filed by her seeking direction to the respondents therein to forbear them from interfering with her peaceful possession and enjoyment of her Plot bearing No.5. Therefore, the learned counsel would submit that since the appellants herein have also preferred a joint appeal, dated 20.06.2016, before the second respondent, for the very same relief, their appeal may also be ordered to be disposed of, with the same directions.

7. This Court has heard the submissions of Mr.R.Velmurugan, learned Government Advocate appearing for the respondents.

8. Though the appellants prayed for a larger relief in the writ appeal, this Court, in the light of the submissions of the learned counsel for the appellants, directs the second respondent / Appellate Authority to dispose of the appeal preferred by the appellants without being influenced by the observations made in the order, dated 26.04.2016, passed in W.P.(MD) No.17317 of 2015, as expeditiously as possible. This writ appeal is disposed of accordingly. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(Cs-II)

/True Copy/

Sub Assistant Registrar(CS)

To:

- 1.The District Collector, Madurai District.
- 2.The District Revenue Officer, Madurai District.
- 3.The Revenue Divisional Officer, Madurai.
- 4.The Tahsildar, Madurai South Taluk, Madurai.

+1cc to M/s.V.Thirumal, Advocate in SR.50709

+1cc to the Special Government Pleader, in SR.50744

W.A.(MD) No.1131 of 2016
and

C.M.P. (MD) No.6982 of 2016
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