



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2016

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CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.A. (MD) .No.1397 of 2016

1.A.Vellaichamy
2.M.Lakshmi
3.E.Devi
4.V.Meenambal

.. Appellants/Petitioners

versus

1. The District Collector,
Ramanathapuram District,
Ramanathapuram.

2. The District Revenue Officer,
Ramanathapuram.

3. The Revenue Divisional Officer,
Paramakudi, Ramanathapuram District.

4. The Tahsildar,
Paramakudi,
Ramanathapuram District.

.. Respondents/Respondents

Writ Appeal filed under Clause 15 of Letter Patent Act to set aside the order, dated 25.04.2016 made in W.P.(MD).No.23554 of 2015.

Prayer in WP(MD). 23554/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the 2nd respondent to consider the petitioner representation dated 09.01.2015 requesting the 2nd respondent to confirm the order passed by the 3rd respondent in his proceedings Na.Ka.No.A3/3275/2013, dated 28.01.2014 within a time limit fixed by this Honble Court.

For Petitioner : Mr.PT.S.Narendra Vasan
For respondents : Mr.R.Velmurugan
Government Advocate

**JUDGMENT****(Judgment of the Court was made by M.SATHYANARAYANAN ,J.)**

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By consent the writ appeal is taken up for final disposal.

2. The appellants/writ petitioners in the affidavit filed in support of the petition would contend that they are permanently residing at 12/338, Kamarajar Nagar, Paramakudi, Ramanathapuram District for the past several decades. Originally a vast area of lands (house sites) in S.No.365/45, Venthoni Village, Paramakudi Taluk, Ramanathapuram District, were assigned by Tahsildar, Paramakudi, to various land-less poor people in the said locality by order, dated 11.06.1985. Several allottees sold their house plots assigned to them to 3rd parties. The appellants herein purchased the house sites as per the details given below.

S.N o.	Plot No.	Extent	Asignee/Vendor	Purchaser
1.	365/101	0.005	Prema	E.Devi/3 rd Petitioner
2.	365/102	0.00.5	Selvaraj	Lakshmi/2 nd Petitioner
3.	365/103	0.01.0	Sikappi	Vellaichamy/1 st Peitioner
4.	365/104	0.01.0	Ekkambaram	Meenambal/4 th Petitioner
5.	365/104	0.01.0	Zahadoon Beevi	Vellaichamy/1 st Petitioner

3. The appellants/writ petitioners claimed to have put up super structure in the above said lands. It is further stated that an unknown person made a complaint to the Tahsildar, Paramakudi, Ramanathapuram District, namely the fourth respondent, complaining that the first appellant herein had encroached upon the common passage and there was an enquiry and report was also submitted to the then Sub Collector. According to the report, the assignment made to the Pubic itself is not in accordance with law and therefore, the Sub Collector, taking note of the same, vide order dated 24.07.1998 has cancelled the assignment made in favour of the original allottees. Challenging the same, the vendors of the appellants filed an appeal before the first respondent with a petition to condone delay and it was dismissed on 24.04.1999. The same was put to challenge before the revisional authority, namely the Special Commissioner and Commissioner Land Administration, Chennai and the revision was allowed on 20.11.2002 and further



direction was issued to the third respondent to conduct a detail enquiry and pass suitable orders. Accordingly, the third respondent has conducted an enquiry and also made a spot inspection and vide proceedings, dated 28.01.2014 had stated that the appellants/writ petitioners were constructed houses and put up super structures several years back and they are living there for quite sometime and house site patta has not been issued to them and therefore, the third respondent has fixed the land value at Rs.122/- per sq.ft as on 01.04.2003. Though the said order has been forwarded to the second respondent in the month of February 2014, the second respondent did not choose to pass orders on the recommendation made by the third respondent, dated 28.01.2014 and therefore, the appellants/writ petitioners came forward with the above said writ petition for a Mandamus directing the second respondent to consider the recommendation of the third respondent and pass appropriate orders in accordance with law, within a stipulated time. Notices were ordered to the respondents and the writ petition was taken up for final disposal.

4. Before the Writ Court, the learned Judge on the facts and circumstances of the case found that the writ petitioners cannot seek to fix the value at the rate prevalent in the year 2002, and since the District Revenue Officer did not yet to pass orders, has directed the District Revenue Officer, to pass appropriate orders after giving sufficient opportunities. The writ petitioners aggrieved by the said order have filed this writ appeal.

5. Mr. PT. S. Narendara Vasan, learned counsel appearing for the appellants/Writ Petitioners would contend that the third respondent on an over all consideration of the relevant facts has recommended the fixation of the market value as on 01.04.2003 and further the second respondent namely, the District Revenue Officer, Ramanathapuram, did not choose to pass any orders and as such, in the light of the observations made in the impugned order passed in the writ petition, some adverse order is likely to be passed in favour of the appellants/writ petitioners and therefore prays for interference.

6. When the matter came up for hearing on 09.11.2016, this Court has directed Mr. A. Velmurugan, learned Government Advocate to seek instructions as to the relevant statutory and administrative instructions, in and by which, the market value is being fixed.

7. According to the learned Government Advocate, the value is fixed as per the guideline value. The learned Government Advocate would further contend that the learned Judge has taken into consideration, the escalation in the land costs and therefore made an observation and it cannot be construed as a positive ~~service~~ <https://hcservices.court.gov.in/hcservices/> it is open to the first respondent to apply his mind independently as to the recommendation made by the third respondent and pass appropriate orders.



8. This Court paid its best attention to the submissions made by the learned counsel on either side and also perused the materials placed on record.

9. A perusal of the proceedings of the third respondent, dated 28.01.2014 would indicate that the appellants herein made a representation/application on 09.01.2015 and after conducting the enquiry, the said official made a positive recommendation for fixation of land rate at Rs.122/- per sq.ft based on the land value prevailing as on 01.04.2003. In the considered opinion of this Court, the third respondent ought to have recommended the value prevalent at least in the year 2009, for the reason that the application/representation of the appellants is dated 05.10.2009. The learned Government Advocate has also produced the letter of the Sub Registrar, Paramakudi, addressed to the Tahsildar, Paramakudi, wherein he has indicated, in respect of land in Tiruvalluvar Nagar, Ward No.35, the guideline value prevalent during the year 2009 was Rs.160/- per square feet. In the considered opinion of this Court, the said value has to be taken as the just and reasonable value for the purpose of calculating the value in respect of the lands purchased by the appellants from the assignees.

10. In the result, the Writ Appeal is partly allowed and the impugned order passed in W.P.(MD).No.23554 of 2015 is set aside and the second respondent is directed to take into consideration the report/proceedings of the third respondent, dated 28.01.2014 in Na.Ka. 3/3275/2013, the guideline value of Rs.160/- per sq.feet prevalent in the year 2009 in respect of land in Tiruvalluvar Nagar, Ward No.35, and thereafter pass orders, on merits and in accordance with law, within a period of 8 weeks from the date of receipt of a copy of this order and communicate the decision taken to the appellants/writ petitioners. No costs.

Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Ramanathapuram District,

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



2. The District Revenue Officer,
Ramanathapuram.

3. The Revenue Divisional Officer,
Paramakudi, Ramanathapuram District.

4. The Tahsildar,
Paramakudi,
Ramanathapuram District.

+ 1 CC TO Mr.PT.S.NARENDRAVASAN, ADVOCATE IN SR No. 73927

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 73995

JIKR

TE/SS-2 : 20/12/2016 : 5P/7C

W.A. (MD) .No.1397 of 2016
29.11.2016