

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.11.2017

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A Nos.1401 to 1403 of 2014 and
Connected Miscellaneous Petitions

R.Loganathan ...Appellant in W.A.No.1401 of 2014
A.Sivasubramaniam ...Appellant in W.A.No.1402 of 2014
S.Sakthivel ...Appellant in W.A.No.1403 of 2014

Vs

- 1.State of Tamil Nadu
Rep. by its Secretary,
Revenue Department,
Fort St.George, Chennai -9.
- 2.State of Tamil Nadu
Rep. by its Secretary,
Education Department,
Fort St.George, Chennai -9.
- 3.The Collector,
Periyar District.
- 4.Erode Vidhya Sangam
Rep. by its Secretary
(running Vasavi College), Erode. ...Respondents 1 to 4 in
all appeals
- 5.The Commissioner
Land Administration
Chepauk, Chennai -5.
- 6.Tamil Nadu Water Supply and Drainage Board,
Rep. by its Managing Director
31, Kamarajar Salai,
Chepauk, Chennai -5.

7.Tamil Nadu Corporation for
Industrial Infrastructure Development Ltd.,
Rep. by its General Manager
Chennai - 6.

...Respondents 5 to 7 in
W.A.Nos.1401 and 1402/2014 and
Respondents 6 to 8 in W.A.No.1403/2014

8.P.C.Lakshmipathy

...5th Respondent in W.A.No.1403/2014

Prayer:- Writ Appeals filed under clause 15 of Letters Patent,
against the order made in W.P.Nos.6266, 6473 and 6804 of 1996
respectively, dated 31.01.2002.

W.P.6266/1996 & W.P.6473/1996:

Petition under Article 226 of the constitution of India to
issue a Writ of Certiorarified Mandamus to call for the records
from the file of the 1st Respondent in G.O.MS.263, Revenue dated
26.03.1996 and quash the clause(i)(ii)(iv) of para 4 of the said
G.O. and further direct the Respondents 1 and 2 to retransfer or
recovery of lands in R.S.27/1,2,3,5,28/1 to 8, 29/5 to 7 and RS
No 27/1,27/6,27/7 respectively in Suriyampalayam Village, Erode
Taluk, Periyar District in entirety.

W.P. 6804/1996:

Petition under Article 226 of the constitution of India to
issue a Writ of Certiorarified Mandamus to call for the records
form the file of the 1st Respondent in G.O.MS No 263, Revenue,
dated 26.03.1996 and quash clause(i)(ii)(iv) and as for as
reconveyig of the land infavour of P.C. Lakshmipathy in clause
(iii) of para 4 of the said G.O. and further direct the
Respondents 1 & 2 to retransfer or reconvey the lands in S.No
27/D(old) S.No.29/1 to 4 in Suriyamangalam Village, Erode Taluk,
Periyar District in entirety.

For Appellants
W.A.Nos.1401 &
1403 of 2014

सत्यमेव जयते
: No appearance

W.A.No.1402 of 2014 : Mr.L.Chandrakumar for
Mr.J.C.Vasudevan

For Respondents : Mrs.A.Srijayanthi,
Spl.Govt.Pleader
for R1 to R3 in all appeals

Mr.A.K.Kumarasamy
Senior Counsel for
Ms.J.Prithvi for R4 in (in all
appeals)

Mr.P.Pandiyaraj for
Ms.P.T.Ramadevi for R5
in W.A.No.1403 of 2014

No appearance for
R5 to R7 in W.A.Nos.1401 & 1403/2014
R6 to R8 in W.A.No.1403/2014

C O M M O N J U D G M E N T

K.K. SASIDHARAN, J.

W.A.Nos.1401 and 1403 of 2014

The common order dated 31 January, 2002 in W.P.Nos.6266, 6473 and 6804 of 1996 dismissing the writ petitions filed by the appellants challenging the Government Order in G.O.Ms.No.263 Revenue Department, dated 26 March, 1996 and to re-transfer the land acquired from them in Suriyampalayam village, Erode Taluk is under challenge at the instance of the land owners.

2. The lands owned by the appellants were acquired by the Government of Tamil Nadu, at the instance of Sri Vasavi College. Since the land was not utilized, the land owners requested the Government to resume the acquired land. The District Collector, Periyar District conducted a meeting with the college authorities, the land owners and the officials of the Tamil Nadu Water Supply and Drainage Board (hereinafter referred to as "TWAD Board") and a decision was taken for apportionment of land between the departments and the land owners.

3. The Government of Tamil Nadu pursuant to the said decision issued an order in G.O.Ms.No.263 Revenue Department, dated 26 March, 1996 allotting 17.71 acres of land, out of 37.13 acres to Sri Vasavi College, Erode, besides an extent of 2.22 acres of land to be used as common pathway. It was decided to resume 17.59 acres of land from Sri Vasavi College, Erode on payment of compensation awarded less solatium at the time of acquisition or the then market value of the land, whichever is less. After resumption, it was decided to re-convey 3 acres of land to the land owners Tmt.Pongiammal and Thiru.P.C.Lakshmipathy on collection of existing market value. It was further decided to allot 14.59 acres of land to TWAD Board on collection of market value. The Government Order was issued pursuant to the agreement arrived at among the stakeholders.

4. The appellants filed writ petitions challenging clause (i), (ii) and (iv) of para 4 of the Government Order on various grounds.

5. The learned single Judge dismissed the writ petitions on the ground that the Government Order was issued pursuant to the agreement arrived at among all the parties. According to the learned single Judge, in case, the appellants are aggrieved, the remedy is only to file a civil suit and writ court is not the appropriate forum. The common order is under challenge at the instance of the parties.

6. The Government Order in G.O.Ms.No.263 dated 26 March, 1996 was issued on the basis of the agreement entered into between the beneficiary, the land owners and the TWAD Board. It was not a unilateral decision of the Government. The Collector, Periyar District conducted meeting with all the stakeholders and thereafter only, a decision was taken, which was translated into action by issuing the Government Order in G.O.Ms.No.263 dated 26 March, 1996. The appellants at a later point of time wanted to resile from the agreement and for the said purpose, filed writ petitions. The learned single Judge was perfectly correct in the finding that the writ petition is not the remedy to avoid a bilateral agreement. We do not find any error in the said finding warranting interference.

7. The intra court appeals in W.A.Nos.1401 and 1403 of 2014 are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

W.A.No.1402 of 2014

8. The appellant in W.A.No.1402 of 2014 is primarily aggrieved on account of the failure to allot the land to him. According to the appellant, the other two land owners were given the land. Since he was not a party to the agreement, land was not returned to him.

9. The appellant in W.A.No.1402 of 2014 was not a party to the agreement. Therefore, he is not legally entitled to the benefit of the Government Order in G.O.Ms.263 dated 26 March, 1996.

10. The learned counsel for the appellant submitted that 50 cents of the acquired land is still lying vacant and as such, he should be permitted to submit a representation to the Government for re-conveyance under Section 48-B of the Land Acquisition Act. We therefore give liberty to the appellant in W.A.No.1402 of 2014 to submit a comprehensive representation to the Government for re-conveyance. In case, any such representation is given, the same shall be considered and disposed of by the Government on merits and as per law and more particularly taking into account the order in G.O.Ms.No.263 dated 26 March, 1996. Such exercise shall be complete within a period of four months from the date of receipt of representation.

11. The intra court appeal in W.A.No.1402 of 2014 is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

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To

- 1.The Secretary,
State of Tamil Nadu
Revenue Department, Fort St.George, Chennai -9.
- 2.The Secretary,
State of Tamil Nadu
Education Department, Fort St.George, Chennai -9.
- 3.The Collector,
Periyar District.
- 4.The Commissioner
Land Administration, Chepauk, Chennai -5.
- 5.The Managing Director
Tamil Nadu Water Supply and Drainage Board,
31, Kamarajar Salai,
Chepauk, Chennai -5.
- 6.The General Manager
Tamil Nadu Corporation for
Industrial Infrastructure Development Ltd.,
Chennai - 6.

+1CC to M/s.P.T.Rama Devi, Advocate (SR.No.84645)
+1CC to Mr.A.K.Kumarasamy, Advocate (SR.No.84461)
+1CC to Government Pleader (SR.No.86298)

W.A.Nos.1401 to 1403 of 2014

NRK (CO)
ah(03/02/2018)