

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2017

CORAM

THE HONOURABLE Mr. JUSTICE M.SUNDAR

W.P.No.705 of 2010
and M.P.No.2 of 2010

1.T.L.Ramasamy
2.Radha Ammal
3.R.Ravichandran

... Petitioners

...vs...

1.The District Collector,
Tiruvannamalai District,
Tiruvannamalai.

2.The District Revenue Officer,
Tiruvannamalai District,
Tiruvannamalai.

3.The Revenue Divisional Officer,
Tiruvannamalai District,
Tiruvannamalai.

4.The Thasildhar,
Chengam Taluk Office,
Chengam, Tiruvannamalai District.

5.The Executive Officer,
Selection Grade Town Panchayat,
Chengam, Tiruvannamalai District.

6. The Assistant Engineer (O&M)
Tamilnadu Electricity Board,
Chengam, Thiruvannamalai District.

7 Rani

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the second respondent in proceeding No.Na.Ka.M3/61894/2006 dated 31.01.2007 and quash the same.

For Petitioners: Mr.S.Udayakumar

For Respondents: Mr.S.Gunasekaran

Additional Government Pleader (For R1 to R4)

M/s.E.Ranganayaki (For R5)

Mr.M.Varunkumar (For R6)

Mr.P.Murugan (For R7)

O R D E R

Mr.S.Udayakumar, learned counsel is present on behalf of the writ petitioners. Mr.S.Gunasekaran, learned Additional Government Pleader is present on behalf of the respondents 1 to 4. M/s.E.Ranganayaki, learned counsel has entered appearance on behalf of the 5th respondent. Mr.M.Varunkumar, learned counsel has entered appearance on behalf of the 6th respondent. Mr.P.Murugan, learned counsel has entered appearance on behalf of the 7th respondent.

2.By consent of all the learned counsels, the main writ petition itself is taken up for final disposal.

3.In the main writ petition, an order dated 31.01.2007 made by the District Revenue Officer (DRO) bearing reference No.Na.Ka.M3/61894/2006 has been called in question. The DRO is the second respondent in the instant writ petition. The DRO has passed the order in exercise of his powers as a revisional authority.

4.The primary contention of the writ petitioners runs as follows:

The writ petitioners are the owners of the immovable property situate at Chengam in Tiruvannamalai District, comprised in Survey No.266/7A1, 266/7A3, 266/5. The first petitioner had purchased the property under sale deed dated 24.07.2002 and registered as document Nos.3251 and 3252 of 2008. The second petitioner had purchased the property under a sale deed dated 24.07.2002 and registered as Document No.3261 of 2008 and the third petitioner had purchased the property under a sale deed dated 24.07.2002 and registered as document No.3262 of 2008. Before purchase, the petitioners herein had entered into

an agreement with the owner of the property one N.Perumal. The said N.Perumal had already agreed to sell the property in favour of Kalaimagal Sabha. Later, the said Kalaimagal Sabha had filed a civil suit in O.S.No.122 of 2000 on the file of the Sub Court, Tiruvannamalai not to alienate the property and in I.A.No.122 of 2000, the petitioners property was attached. The pendency of the said suit was not informed to the petitioners and thereafter, the first petitioner herein had filed a writ petition before this Court in W.P.No.514 of 1999 and by order dated 01.02.2008, the petitioners have been permitted to pay a sum of Rs.55,10,250/-. Accordingly, the said amount was paid by the first petitioner and thereafter, this Court directed to raise the attachment. As per the order of this Court in W.P.No.514 of 1999, the Joint Receivers of Kalaimagal Sabha had filed necessary memo before the Sub Court, Tiruvannamalai and raised the order of attachment of the property by order dated 25.06.2008. Thereafter, the petitioners have obtained patta from revenue authorities and the petitioners are in possession and enjoyment of the property.

5.The above said patta obtained from the revenue authorities is the subject matter of the proceedings before the District Revenue Officer/second respondent herein.

6.There is no dispute between the parties that a remedy by way of further revision is available before the Special Commissioner, Land Administration. It is submitted that there may be some other authority manning this office now. If that be the case, the said Officer manning this office can act as the further revisional authority.

7.The writ petitioners state that they would avail this remedy of further revision, provided there is a direction to the Special Commissioner, Land Administration to entertain their further revision. Such a plea is made owing to two reasons, one is limitation and the second is that the writ petitioners were not parties before the second respondent in the impugned proceedings and as a matter of fact, they were not parties before the authorities below the DRO. If both these facts are covered and if there is a direction, the petitioners state that they would avail the further revisional remedy.

8.Owing to such a stand taken by the writ petitioners, wherein and whereby they have abridged and restricted their prayer in the writ petition, this Court is inclined to pass an order on the following terms:

- a) The writ petitioners undertake to file a further revision before the Special Commissioner, Land Administration or the other authority who may be manning that office now within a period of thirty days from the date of receipt of a copy of this order.
- b) The said Special Commissioner or the Officer manning such office shall entertain the further revision of the writ petitioners (against the order of DRO dated 31.01.2007 bearing reference No.Na.Ka.M3/61894/2006) without raising any objection regarding limitation.
- c) The Special Commissioner shall also not raise any objection that the writ petitioners were not parties in the proceedings prior to/before the DRO.
- d) On such further revision being preferred by the writ petitioners, the Special Commissioner shall dispose of the further revision after giving an opportunity to all concerned including personal hearing within a period of three months therefrom.
- e) As the writ petitioners were not parties to the impugned order and all proceedings prior to that, all questions are left open and the writ petitioners can raise any issue or point which has been dealt with or decided by the DRO or the authorities below.
- f) The writ petitioners had the benefit of an order of interim stay of impugned order of the DRO from 27.01.2012. The order has been operating for nearly five years now. It would only be fair that this order continues to operate until the Special Commissioner or the Officer manning the office of the Special Commissioner, Land Administration decides and disposes off the further revision within the time frame fixed by this Court.
- g) In the event of the order of the Special Commissioner, Land Administration in the further revision being adverse to the writ petitioners, the benefit of the above interim order shall continue for a further period of thirty days so as to enable the writ petitioners to avail further remedies that may be available to them in law.

10.The Writ Petition is disposed of on the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

- 1.The District Collector,
Tiruvannamalai District,
Tiruvannamalai.
- 2.The District Revenue Officer,
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6. The Assistant Engineer (O&M)
Tamilnadu Electricity Board,
Chengam, Thiruvannamalai District.

+1cc to Mr.S.Udayakumar, Advocate SR.No.11907
+1cc to Mr.M.Varunkumar, Advocate SR.No.12470
+1cc to Government Pleader SR.NO.12671

W.P.No.705 of 2010
and M.P.No.2 of 2010

SDR 15.03.2017