

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2017

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

W.P. Nos.5326 and 5334 of 2003

Maruthayya Pillai Trust
Eswarankoilpathu Village
Thanjavur
represented by its Trustee
P.S. Balasubramanian
S/o Pattu Seetharama Pillai
Naducavery
Thiruvayyaru Petitioner in both the WPs

vs.

1 The Assistant Commissioner
Land Reforms
Trichy

2 The Assistant Commissioner
Land Reforms
Myladuthurai

3 Land Commissioner
Land Reforms
Chennai - 600 005

Respondents in both the WPs

Prayer in W.P. No.5326 of 2003:

Writ Petition filed under Article 226 of the Constitution seeking for a writ of certiorari calling for the records of the second respondent in MR IV/598/17/70/TJR/A5 dated 29.01.2003 and quash the same as illegal, arbitrary and unenforceable.

Prayer in W.P. No.5334 of 2003:

Writ Petition filed under Article 226 of the Constitution seeking for a writ of certiorari calling for the records of the second respondent in MR IV/597/17/70/TJR/A5 dated 29.01.2003 and quash the same as illegal, arbitrary and unenforceable.

For petitioner in
both the WPs No appearance
For respondents in Mr. S. Pattabiraman
both the WPs Government Advocate

COMMON ORDER

Not only the issue involved, but also the parties to these writ petitions being common, these writ petitions are considered and decided by this common order.

2 These writ petitions are filed calling into question the legality and validity of the orders dated 29.01.2003 passed by the second respondent, viz., The Assistant Commissioner, Land Reforms, Myladuthurai.

3 These two writ petitions were originally filed through counsel M/s.V.K.Vijayaragavan, Raja Ramani, P.T. Nalin Kumar and R. Roopa. At the time of admission on 19.02.2003, interim stay was granted and the same was made absolute on 28.08.2003. Since then, this case has been pending on the file of this Court. In the meantime, when the matter came up for hearing, the counsel-on-record, viz., M/s. V.K.Vijayaragavan and others withdrew their appearance and one Mr.N.Vanchinathan, advocate, entered appearance for the petitioner.

4 On 21.06.2010, when the matter came up for hearing, it was represented to the Court that Mr. N. Vanchinathan, counsel-on-record had passed away. Therefore, this Court directed the Registry to issue notice to the petitioner. Accordingly, the Registry had issued notice dated 24.06.2010 by "Registered Post with Acknowledgment Due" to the petitioner and the same was also served on the petitioner, as could be seen from the postal acknowledgment card received by the Registry. Despite service of notice and also the petitioner's name having been printed in the cause list, there is no representation for the petitioner. Today, the petitioner's name was called out thrice by the Court Attender. Yet, there is no representation for the petitioner. Ergo, given the fact that this case is of the year 2003, this Court perused the records and heard the learned Government Advocate.

5 The petitioner is a Trust and is represented by one P.S.Balasubramanian. According to P.S. Balasubramanian, he is the legal heir of Pattu Seetharama Pillai; that the properties in question originally belonged to his great grand father Sethurama Pillai, who had two sons by name Guruswamy and Chockalingam; that Guruswamy had a son by name Shanmugam Pillai; that, to Shanmuga Pillai was born Pattu Seetharama Pillai; that the above said Chockalingam had one son by name Maruthayya Pillai, who had no issues; that Maruthayya Pillai, during his

lifetime, had created a Trust on 06.05.1910 in respect of the properties in dispute for certain religious and charitable purposes by name "Maruthayya Pillai Trust" by registering the same on 06.05.1910. By virtue of the fact that Maruthayya Pillai did not have any legal heirs, it is claimed by Balasubramanyam that he is the Managing Trustee of the said Trust.

6 The lands in question devolved on Pattu Seetharama Pillai, who is the father of Balasubramanian. Since the holdings of Pattu Sethurama Pillai were in excess, the Government took over surplus lands measuring around 24.31 ordinary acres (equivalent to 23.868 standard acres), under the Tamil Nadu Land Reforms (Fixation of Ceiling on land) Act, 1961 (for brevity "the Act") and published the final settlement under Section 12 of the Act in the Government Gazette dated 11.02.1981. Aggrieved by the said order, Pattu Seetharama Pillai filed a revision petition before the Land Commissioner, Chennai, contending that the lands that were taken were encumbered lands. Therefore, the Land Commissioner, Chennai, by his order dated 29.03.1982, directed the Authorised Officer to select alternative lands belonging to Pattu Seetharama Pillai in Thanjavur District and to prepare and send necessary amendment to the final settlement. Accordingly, alternative lands of Pattu Seetharama Pillai were selected in Thanjavur District and necessary orders were passed on 12.12.1989. Aggrieved by the said order dated 12.12.1989, a revision petition before the Land Commissioner, Chennai, was filed in R.P.No.18 of 1990 and the same was dismissed as not maintainable on 09.02.1990. Thereafter, amendment to final settlement was published in the Government gazette dated 04.04.1990. Based on this, a notification under Section 18(1) of the Act was published in the Government gazette on 19.12.1990.

7 While so, Balasubramanian's minor son Ramprakash filed a suit through his mother Devika (wife of Balasubramanian) in O.S.No.910 of 1990 before the District Munsif Court, Thanjavur, for temporary injunction restraining the Government from taking over the land in question on the ground that the lands belong to Maruthayya Pilla Trust. The suit in O.S.No.910 of 1990 was decreed ex parte by the District Munsif Court, Thanjavur on 26.06.1991. Feeling aggrieved, the Assistant Commissioner, Land Reforms, Trichy, filed a special revision petition before the Tamil Nadu Special Appellate Tribunal, Madras, in S.R.P. No.28 of 1999 and the said Appellate Tribunal, by order dated 14.11.2000, directed the Assistant Commissioner, Land Reforms, Trichy, to proceed with the case by ignoring the ex parte decree in O.S. No.910

of 1990 on the ground that the same is a nullity in the light of Section 77-G of the Act and take steps to assign the surplus lands in terms of the Tamil Nadu Land Reforms (Disposal of

Surplus lands) Rules, 1965. Pursuant to the orders of the said Appellate Tribunal, when the authorities had initiated action by issuance of "B" notice, calling upon landless poor to submit their application for assignment of land, the present writ petitions have been filed.

8 In the considered opinion of this Court, the present writ petitions are clearly an abuse of process of law, inasmuch as Balasubramanian had set up his minor son Ramprakash and had filed a suit only for temporary injunction and not for declaration of title. Such a suit itself is not maintainable in the light of Section 77-G of the Act. Further, Balasubramanian had not chosen to challenge the order dated 14.11.2000 passed by the Special Appellate Tribunal in S.R.P. No.28/1999. Instead, he is seeking to challenge the action taken by the authorities to assign lands to the landless poor by filing these writ petitions.

In view of the foregoing discussion, this Court is of the considered opinion that the present writ petitions are frivolous and hence, the same are accordingly dismissed as being devoid of merits. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

cad
To
1 The Assistant Commissioner
Land Reforms, Trichy

2 The Assistant Commissioner
Land Reforms
Myladuthurai

3 The Land Commissioner
Land Reforms
Chennai - 600 005

+1cc to the Government Pleader, S.R.No.1665

lrs (CO)
md(08/02/2017)

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