

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2017
CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
And
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.No.2757 of 2012
And
M.P.No.1 of 2012

M.K.Subramaniam

... Appellant

Vs.

1. The Secretary to Government
of Tamilnadu, Revenue Department,
Secretariat,
Fort St.George,
Chennai 600 009.
2. The Secretary to Government of
Tamilnadu, Housing and Urban
Development Department,
Secretariat, Fort St.George,
Chennai 600 009.
3. The Managing Director,
Tamilnadu Housing Board,
321, Anna Salai, Nandanam,
Chennai 600 035.
4. The Collector of Thiruvallur
Thiruvallur District, Thiruvallur,
Tamilnadu.
5. The Commissioner,
Ambattur Municipality,
Ambattur, Chennai 600 053.
6. The Special Tahsildar,
Land Acquisition
Tamilnadu Housing Board,
321, Anna Salai,
Nandanam, Chennai 600 035.

.. Respondents

Prayer:

Writ appeal filed under Clause 15 of the Letters Patent praying to set aside the order passed in W.P.No.27331 of 2007 dated 09.02.2010.

W.P.No.27331 of 2007:-

To issue a Writ of Certiorarified Mandamus to call for the records of the 3rd respondent culminating in his proceedings in letter Ni.A.3(3)/7061/07 dt 23.6.2007, quash the same and direct the respondents not to interfere with the peaceful possession and enjoyment of the entire property measuring 1 Acre 30 cents in S.No.442 (part) at Thalaiyari Kuttai, Mogappair village, Ambattur taluk Thiruvallur district except in accordance with law.

For Appellant : Mr.A.A.Lawrance
For Respondent :
Nos.1, 2, 4 & 6 : Ms.A.Srijayanthi
Special Government Pleader
For Respondent No.3 : Mr.V.Anandhamurthy
Standing Counsel (TNHB)
For Respondent No.5 : No Appearance

J U D G M E N T

(Judgment of the Court was delivered by K.K.SASIDHARAN,J.)

This intra court appeal is directed against the order dated 09.02.2010 in W.P.No.27331 of 2007, whereby and whereunder the learned Single Judge dismissed the writ petition filed by the appellant challenging the order passed by the Tamil Nadu Housing Board dated 23.06.2007, negating the plea of re-conveyance.

2.The learned counsel for the appellant contended that the appellant has been in possession and enjoyment of the Government land and he was undertaking fishing operations. The land was in his possession for more than 60 years. The land was taken possession by the Tamil Nadu Housing Board by evicting the appellant un-ceremoniously. According to the learned counsel, the appellant is entitled to the property in question as he was in adverse possession. The learned counsel contended that the appellant is in the process of filing a civil suit and for want of particulars matter is delayed.

3.The learned Standing Counsel for the Tamil Nadu Housing Board submitted that the land originally belonged to the

Government. The land was assigned to the Tamil Nadu Housing Board on payment of a sum of Rs.15,24,78,393.00. The Tamil Nadu Housing Board paid the said amount and after getting allotment, developed it and constructed flats and it was allotted to the public. According to the learned counsel, even a writ petition was filed in public interest stating that the Tamil Nadu Housing Board has been constructing building on a water body at Mogappair. The writ petition was dismissed by the Division Bench. According to the learned counsel, the appellant has no right, title or interest over the property in question and the writ petition was rightly dismissed by the learned Single Judge.

4. There is no dispute that the land which is the subject matter of this appeal originally belonged to the Government. The appellant has made a claim that he has been in possession and enjoyment of the said land by undertaking fishing operations. There is no decree of declaration produced by the appellant with respect to the property in question. The Government assigned the land to the Tamil Nadu Housing Board on receipt of the market value. The proceedings in and by which, the Government allotted the land to the Tamil Nadu Housing Board is not under challenge. In case, the appellant is having any right in respect of the land in question, he ought to have filed a civil suit for declaration. There are no documents produced before us to show that the land belongs to the appellant and that his possession was confirmed by the Government.

5. The appellant made an application before the Tamil Nadu Housing Board for re-conveyance of the property. The application was rejected. It was only the said order which was put in issue before the learned Single Judge. The fact that the appellant filed application for re-conveyance itself shows that the land was taken possession by the Tamil Nadu Housing Board. It is not open to the appellant to contend that he is entitled to the land in question without there being a scrap of paper to prove his ownership or possession of the land. We are therefore of the view that the order passed by the learned Single Judge does not warrant interference.

6. In the upshot, we dismiss the intra court appeal. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

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of Tamilnadu, Revenue Department,
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+1cc to Mr.V.Anandhamurthy, Advocate, S.R.No.89264
+2ccs to Mr.A.A.Lawrance, Advocate, S.R.No.89897

W.A.No.2757 of 2012
And
M.P.No.1 of 2012

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SVI (CO)
CS/30.01.2018