

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.11.2017

CORAM:

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

W.A No.1265 of 2016
and
CMP No.16332 of 2016

1.Santhosh Kumar
2.Soundararajan

...Appellants

Vs

1.The Land Commissioner,
Chepauk, Chennai -5.
2.The Assistant Commissioner (Land Reforms)
Jeevan Bhagvan Building,
Gandhiji Road, Erode.
3.The Tahsildar,
Sulur Taluk, Coimbatore District.

...Respondents

Prayer:- Writ Appeal filed under clause 15 of Letters Patent, against the order made in W.P.No.30793 of 2015 dated 12.01.2016 filed under Article 226 of the Constitution of India for a writ of Certiorarified mandamus to call for the records pertaining to the impugned proceeding of the 2nd respondent vide Na. Ka. NO.1721/ 2008/ C2 dated 21.10.2013 and the consequential order of 3rd respondent vide Na. Ka. NO.7908/ 2013/ A2 dated Nil.10.13 and quash the same and to direct the Second and third respondents to restore the records in the name of the petitioner in respect of the S.No.73 74 75 in Appanaickanpatti Sulur Taluk Coimbatore District forth with.

For Appellants : Mr.V.Manohar
For Respondents : Mrs.A.Sri Jayanthi
Special Govt.Pleader

J U D G M E N T

K.K. SASIDHARAN, J.

The Assistant Commissioner (Land Reforms), Erode by proceedings dated 14 August 2002, assigned the land acquired from the land owners under the Tamil Nadu Land Reforms Act to

the appellants. The assignment was made under Rule 8(3) of the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965. The Commissioner for Land Reforms, long after the order of assignment initiated suo motu revision pursuant to a complaint filed by a third party and ultimately cancelled the assignment. The appellants filed statutory appeals before the Government under Rule 14(1) of the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules. During the pendency of the appeals before the Government, the Assistant Commissioner (Land Reforms) Erode, called upon the Tahsildar, Sulur, by proceedings dated 21 October 2013 for mutation of revenue records taking into account the order passed by the Land Commissioner dated Nil October 2012. The proceedings dated 21 October, 2013 was challenged before the writ court in W.P.No.30793 of 2013. The learned single Judge dismissed the writ petition. Feeling aggrieved, the unsuccessful writ petitioners are before this Court.

2. The learned counsel for the appellants contended that the statutory appeals are now pending before the Government. Since action was taken for taking possession and for mutation of records, the appellants moved the writ court. The learned single Judge instead of protecting the possession of the appellants during the currency of the appeals dismissed the very writ petition with certain observation.

3. The learned Special Government Pleader justified the order passed by the Land Commissioner and the subsequent proceedings initiated by the Assistant Commissioner (Land Reforms) for mutation of revenue records.

4. There is no dispute that the assignment given to the appellants by order dated 14 August, 2002 was subsequently cancelled by the Land Commissioner taking suo motu proceedings. Feeling aggrieved by the said order, the appellants filed statutory appeals before the Government under Rule 14(1) of the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules. The appeals are pending with the Government and the same is evident by the notice issued by the Land Commissioner (Chepauk), Chennai dated 21 June, 2016.

5. The Assistant Commissioner (Land Reforms) during the currency of the appeals pending before the Government initiated action for mutation of revenue records and to take possession of the land. It was only at that point of time the appellants have filed the writ petition.

6. The statutory appeals are pending before the Government. The appellants ought to have taken up the issue with the Government. However, for the reasons best known, the appellants rushed to this Court with the writ petition instead of

requesting the Government to maintain status quo during the currency of the appeals.

7. After hearing the learned counsel for the appellants and the learned Special Government Pleader on behalf of the respondents, we are of the view that interest of justice would be sub served by directing the Government to dispose of the statutory appeals filed under Rule 14(1) of the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules on merits and as per law. The status quo as on today shall be maintained for a period of four weeks. It is open to the Government either to pass an order on the stay petitions stated to have been filed by the appellants or to dispose of the very appeals on merits. In any case, the appeal shall be disposed of within a period of six months from the date of receipt of a copy of this judgment.

8. The intra court appeal is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

//True copy//

Sub Assistant Registrar

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To

1. The Land Commissioner,
Chepauk, Chennai -5.
2. The Assistant Commissioner (Land Reforms)
Jeevan Bhagvan Building,
Gandhiji Road, Erode.
3. The Tahsildar,
Sulur Taluk,
Coimbatore District.

+1cc to Mr.V.Manohar, Advocate SR.No.85284
+1cc to Government Pleader SR.No.85863

W.A No.1265 of 2016

PPA (CO)
GN (02/01/2018)