BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 10.07.2017
CORAM:
THE HONOURABLE Mr.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE Mr.JUSTICE G.R.SWAMINATHAN

W.P(MD).No.12717 of 2017
and
W.M.P(MD).No.9827 of 2017

Thirumathi Muthammal Textiles (P) Ltd,
Rep. by its Managing Director
P.Govindarajan. ... Petitioner

Vs.

1. The Secretary to Government,
   Revenue Department,
   Fort St. George,
   Chennai - 600 009.

2. The Special Commissioner and Commissioner,
   for Land Administration,
   Chepauk, Chennai - 600 005.

3. The District Collector,
   Collector Office,
   Pudukkottai.

4. The Revenue Divisional Office,
   Illupur, Pudukkottai.

5. The Tahsildar,
   Viralimalai Taluk,
   Trichy District. ... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records from the fifth respondent relating to the impugned order passed by the fifth respondent in his proceedings dated 28.06.2017 and consequential impugned order passed by the fifth respondent on 03.07.2017 and quash the same.

For Petitioner : Mr.A.Saravanan
For Respondents : Mr.Govindan,
Spl. Govt. Pleader.

<u>O R D E R</u>

(Order of the Court was made by G.R.SWAMINATHAN, J.)

This writ petition has been filed questioning the order dated 03 July 2017 passed by the fifth respondent calling upon the writ petitioner to vacate the lands comprised in survey Nos.159/2, 159/3, 159/6 and 324/4 measuring in all 1.93.0 hectares in Boodakudi Village, Pudukottai District.

2.The said lands are surrounded on all sides by the lands belonging to the petitioner. The petitioner is a textile mill. Since they have been in occupation and enjoyment of these lands for several years, they made a request to the revenue authority to assign the said lands. A communication bearing Na.Ka.A6/7888/2002 dated 13 November 2003 was sent to the writ petitioner informing the petitioner that the land value was arrived at Rs.39,48,522/- and the consent of the writ petitioner was sought for conveying the said lands in favour of the writ petitioner. It was made clear that if the writ petitioner failed to do so, steps would be taken to remove the encroachment. Since then there has been a regular exchange of correspondence between the writ petitioner and the revenue authorities, the revenue authorities have been periodically informing the writ petitioner that either they should purchase the properties for the value arrived at or they must remove the encroachment. The petitioner had been contending that originally the land value was arrived a sum of Rs.6,32,963/- and therefore enhancing it to Rs.39,52,404.40/- was not justified.

3.The Tahsildar, Viralimalai sent a communication bearing Na.Ka.No.6859/2016/A6 dated 11 June 2017, calling upon the writ petitioner to remit the land value of Rs.39,52,404.40/- within one week. Even thereafter, the writ petitioner did not choose to remit the amount indicated in the said communication. Therefore, the fifth respondent herein issued notice under section 7 of Tamil Nadu Land Encroachment Act, 1905 calling upon the writ petitioner to show cause as to why they should not be evicted from the subject lands. The writ petitioner submitted a reply dated 30 June 2017 pointing out that no basis had been indicated for arriving at the said sum of Rs.39,52,404/- as the land value. The fifth respondent thereafter passed the impugned order dated 03 July 2017 under section 6 of the Tamil Nadu Land Encroachment Act, 1905 calling upon the writ petitioner to vacate from the encroached lands on or before 10 July 2017. Even though the alternative remedy of appeal is very much available against the impugned order, the writ petitioner has chosen to move this Court directly by invoking the jurisdiction available under Article 226 of the Constitution of India.

4.Writ jurisdiction is a discretionary one. We note that the writ petitioner is not a poor villager occupying a few cents of land unauthorizedly. It is a textile mill that has been squatting on what is admittedly the land belonging to the Government right from 1986. As early as in the year 2003, the writ petitioner was called upon to remit the sum of Rs.39,52,404.40/-. The extent of land occupied by the writ petitioner is a very large area. Even before the present eviction proceedings were initiated, the revenue authority sent one more reminder as late as on 11 June 2017. The writ petitioner did not avail the opportunities that were repeatedly given over more than 15 years. That is why even though few technical contentions are very much available in favour of the writ petitioner, we have chosen not to exercise our discretion in favour of the petitioner. We may also point out that the only contention raised on the side of the writ petitioner was they are willing to remit the amount mentioned in above provided the revenue authorities furnish a calculation sheet. Except exhibiting this apparent willingness to remit the said sum subject to the condition that the authorities justify the quantification of the said amount, no other point was urged.

5.We note that the revenue authorities did not straight away pass an order of eviction. It issued notice under section 7 of the Tamil Nadu Encroachment Act, 1905 and only thereafter passed the order under section 6 of the Act. It is not the case of the petitioner that they have any valid defence. In normal course, we would have relegated the writ petitioner to avail the alternative remedy of appeal. But, in the present case, it would be an useless exercise. Even according to the writ petitioner, the lands occupied by them in survey Nos.159/2, 159/3, 159/6 and 324/4 measuring an extent of land in 1.93.0 hectares do not belong to them.

6.In these circumstances, we did not want to give liberty to the writ petitioner to file any appeal or revision. We see no grounds to interfere with the impugned order. The writ petition is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To
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Revenue Department,
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   for Land Administration,
   Chepauk, Chennai - 600 005.

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5. The Tahsildar,
   Viralimalai Taluk,
   Trichy District.

+1 CC to THE SPECIAL GOVERNMENT PLEADER, SR No. 65013.

ARUL
PSM/MR-KKR/SAR2/26.07.2017/4P/7C

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