



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 19.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.A. (MD) .No.43 of 2013 &
M.P. (MD) .No.2 of 2013 &
M.P. (MD) .No.1 of 2014 &

- 1.D.Ramadoss (died)
- 2.R.Sivasubramanian
- 3.R.Durai Arasan
- 4.R.Suresh
- 5.R.Karthikeyan
- 6.P.Duraisamy
- 7.D.Nandha Kishore

: Appellants

(Appellants 2 to 7 are brought on record as LRS of the deceased 1st appellant vide Court order dated 19.07.2017 in C.M.P.(MD). No.9628 of 2016)

Vs.

- 1.The Section Officer CKR Section
PWD, Thirukattupalli,
Thiruvaiyaru Taluk,
Thanjavur District.
- 2.The Assistant Executive Engineer,
Cauvery Delta Sub Division,
Thanjavur.
- 3.The Secretary to Government,
Public Works Department,
Fort St.George,
Chennai.

: Respondents/Respondents

PRAYER:Writ Appeal is filed under Clause 15 of Letters patent Act against the order dated 30.11.2012 passed in W.P.(MD).No.5186 of 2006.

Prayer in WP(MD) . 5186/ 2006 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of certiorarified mandamus calling for the records relating to the proceeding of the first respondent in Letter NO. LO17/PA/Thi Pa dated 21.6.06 and quash the same and consequently forberaring the respondents from interfering the petitioners possession and enjoyment of the lands which are the subject matter of the



impugned proceedings of the first respondent dated 21.6.2006 except under due process of law.

For Appellants : Mr.M.Ajmal Khan
Senior Counsel for
M/s.Ajmal Associates
For Respondents : Mr.T.S.Mohd. Mohideen
Additional Government Pleader

JUDGMENT

[Judgment of the Court was delivered by **M.M. SUNDRESH, J**]

Originally lease was granted in favour of the writ petitioner's predecessor. A decision was made to auction the land. The writ petitioner filed writ petition before this Court in W.P.No.8130 of 1989, wherein learned Single Judge, as he then was pleased to hold even assuming he was a tenant, due procedure will have to follow to evict him. Thereafter, the writ petitioner made a request for assignment. The request was rejected by the impugned order by stating that considering the strategic importance of the land situated in the river bed, his request is not feasible for compliance. Incidentally he was informed that it has been brought under the control of Public Works Department.

2. When the matter was taken up for hearing, the learned Single Judge by relying upon the letter said to have been signed by the writ petitioner was pleased to dispose of the writ petition by holding that excluding the larger extent of 10.34 acres, his request for remaining extent of 1.64 acres of land in Survey No.41/C1/CD can be considered. Alleging that the said letter has not been given infact by the writ petitioner, the present writ appeal has been preferred. Pending writ appeal, the writ petitioner died and his legal heirs have been brought on record.

3. The learned Senior Counsel for the appellants would submit that it is factually incorrect to state that the letter has been given by the writ petitioner.

4. The learned Additional Government Pleader based on the counter affidavit would submit that the writ petitioner did give a letter and the respondents are ready and willing to send the letter to expert opinion to verify with his admitted signature. In pursuant to the letter given by the writ petitioner, possession has been taken except 1.64 acres as stated above.

5. These are disputed question of facts. The learned Single Judge has passed the order in the presence of both sides. Therefore, we are inclined not to go into the same. The issue is
<https://hcservices.ecourts.gov.in/hcservices/> respect to the alleged letter said to have been given by the writ petitioner, but also the consequential auction



and possession handed over by him resulting in taking over by the official respondents.

6. In such view of the matter, we are not inclined to allow this writ appeal. The writ appeal is dismissed with liberty to the appellants to work out their remedy in the manner known to law. Consequently connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar(P&A)

/True copy/

Sub Assistant Registrar

To

- 1.The Section Officer CKR Section
PWD, Thirukattupalli,
Thiruvaiyaru Taluk, Thanjavur District.
- 2.The Assistant Executive Engineer,
Cauvery Delta Sub Division, Thanjavur.
- 3.The Secretary to Government,
Public Works Department, Fort St.George, Chennai.

+1cc to M/s.Ajmal Associates,Advocate,SR.66537

+1cc to M/S.Special Government Pleader,SR.66965

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19.07.2017

JIKR

KK/MR KKR/SAR2/04.08.2017/3P-6C