

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:08.01.2018

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A No.2460 of 2011 and

M.P.No.1 of 2011

- 1.C.Raman
- 2.P.Nagulan
- 3.V.Palani
- 4.Chinnakaruppan
- 5.R.Subban
- 6.P.Govindappan
- 7.N.Periyan
- 8.S.Ramasamy
- 9.M.Nachimuthu
- 10.S.Ramasamy
- 11.S.Karuppan
- 12.S.Nachi
- 13.S.Thangamuthu
- 14.S.Kalimuthu
- 15.P.Annadurai
- 16.S.Subramaniam
- 17.Rasappan

...Appellants/Petitioners

Vs

- 1.The Secretary to the Government,
Revenue Department, Secretariat,
Fort St.George, Chennai -9.

- 2.The Land Commissioner,
Land Reforms, Chepauk, Chennai -5.

- 3.The Assistant Commissioner,
Land Reforms, Erode -2.

...Respondents/Respondents

Prayer:- Writ Appeal filed under clause 15 of the Letter Patent to set aside the order dated 07.06.2011 made in W.P.No.8602 of 2004.

Prayer in WP.No.8602 of 2004:Writ petition has been filed under Article 226 of Constitution of India praying to issue writ of certiorari calling for the records of the 1st respondent in letter MS.No.431, Revenue Department dated 16/08/2000 and order passed by the 2nd respondent in D1/RP.No.5/99 dated 24.06.1999 and quash the said orders as illegal, void and arbitrary.

For Appellants

: Mr.V.Raghavachari

For Respondents

: Mr.I.Sathish

Addl.Govt.Pleader

J U D G M E N T
(made by K.K.SASIDHARAN,J.)

The statutory revision petition filed by the appellants challenging the order dated 24 June, 1999 on the file of the Land Commissioner, Chepauk, Chennai, was rejected by the Government on the ground that it was received belatedly. Feeling aggrieved, the unsuccessful revision petitioners have filed a writ petition before this Court and the same was dismissed by the learned single Judge. The order passed by the writ court is under challenge before us.

2. We have heard the learned counsel for the appellants. We have also heard the learned Additional Government Pleader on behalf of the appellants.

3. The assignments of land given to the respective appellants were cancelled by the Land Commissioner by a common order dated 24 June, 1999.

4. The order passed by the Land Commissioner indicates that notices were not served on the appellants. According to the Commissioner, several steps were taken to serve notices to the parties. However, notices could not be served on the appellants as they were not residing in the address shown in the orders of assignment. The Land Commissioner therefore opined that the fact that notices could not be served on the assignees as they were not residing at the address given in the order of assignment itself would indicate that the assignees were not residing in the locality in question. The orders of assignment were therefore cancelled on the ground that the appellants have not undertaken cultivation activities.

5. The appellants filed statutory revision before the Government invoking Rule 11(4) of the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965. The revision petition was presented on 26 June, 2000. The Government, by order dated 16 August, 2000 has rejected the revision on the ground that it was time barred. It was the said order which was impugned before the learned single Judge.

6. The learned single Judge without addressing the issue raised by the appellants with regard to the initiation of revision petition within the cut off date and failure to give notice before passing the adverse order involving civil consequence dismissed the writ petition by considering the merits of the matter.

7. The Land Commissioner passed the order on 24 June, 1999. Necessarily, the date of the order has to be excluded for the purpose of computing the period of limitation. It is not as if the appellants were present before the Land

Commissioner when the order in question was passed. Even according to the Land Commissioner, the order was passed ex parte after taking steps to serve notice on the appellants. Therefore, it is evident that the appellants were not aware of the order as on the date on which it was passed. The revision petition was received by the Government on 26 June, 2000. In view of the fact that the order was passed on 16 August, 2000 and that too in the absence of the appellants,, the Government was not correct in rejecting the revision on the ground that it was received belatedly. We are therefore of the view that the matter requires consideration by the Government.

8. In the result, the order dated 16 August, 2000 is set aside. We direct the Government to consider the revision petition filed by the appellants under Rule 11(4) of the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965 on merits and as per law. Such exercise shall be completed within a period of four months from the date of receipt of a copy of this judgment.

9. In the up shot, we allow the intra court appeal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to the Government,
Revenue Department, Secretariat,
Fort St.George, Chennai -9.

2.The Land Commissioner,
Land Reforms, Chepauk, Chennai -5.

3.The Assistant Commissioner,
Land Reforms, Erode -2.

+1cc to M/s.V.Raghavachari, Advocate Sr.No.1382/18

SJ(CO)
sm:9.2.2018

W.A No.2460 of 2011