

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 31.08.2018

CORAM:
THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.9156 of 2013
and M.P.No.1 of 2013

1. Sarardhambal
2. E.P.Meenakshi
3. Devamani
4. Kasithangam
5. G.S.Kajambaal
6. Rajina
7. Vasantha Kumari
8. Gani Roja
9. Merry Berth
- 10.Mangai

...Petitioners

Vs

- 1.The Secretary, Revenue Department,
Secretariat, Fort St., George,
Chennai - 9.
- 2.The Collector,
Office of the Collectorate,
Kancheepuram District,
Kancheepuram.
- 3.The Chennai Metropolitan Water Supply & Sewerage Board,
Rep. by its Chief Engineer (Projects)-1 (I/C),
No.1, Pumping Station Road, Chintadripet,
Chennai - 2.

... Respondents

[R3, impleaded as per the order of this Court, dated 11.10.2017
in WMP.No.20660 of 2017 in WP.No.9156 of 2013]

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the concerned records from the 1st respondent, quash the order of the 1st respondent bearing No.G.O.(1D) No.42, dated 07.02.2013 as illegal, arbitrary, contrary to law and utter disregard to the report dated 15.11.1988 of Tahsildar and proceedings of the District Revenue Officer, dated 09.07.1991, and consequently direct the respondents to receive the cost of the price of the land on the basis of Rs.10.500 per cent being fixed by the Tahsildar and

issue patta in favour of the petitioners and insofar as the petitioners are concerned in respect of the plot in 8.25 Hectare of land in S.No.405/8A3 and 405/8A4 in 118 Okkiam, Thuraipakkam Village, Saidapet Taluk (presently Solinganallur Taluk).

For petitioners : M/s.M.K.Hidayathullah

For respondents : Mr.A.N.Thambidurai,
Spl.G.P., for RR1 & 2

Mr.N.Ramesh, for R3

ORDER

Challenging the order passed by the first respondent rejecting the petitioners request for assigning house site in S.Nos.405/8A3 and 405/8A4 in Okkiam, Thuraipakkam Village, Saidapet Taluk, this writ petition has been filed,

2. According to the petitioners, they are the members of the Tamil Nadu Private Drivers Wives Association, which is registered under the Societies Registration Act with Registration Number 205/87. The members of the Association are from the lower strata of the Society and the Association has been formed for improving the living condition of its members. Earlier, the Association approached the Hon'ble Chief Minister during the year 1987 for allotment of some piece of land for putting up houses. On the direction of the Hon'ble Chief Minister, the Tahsildar conducted an enquiry and filed a report on 15.11.1988, identifying 8.24 acres Hectares of land in Survey Nos.405/8A3 and 405/8A4 in Okkiam, Thuraipakkam Village, Saidapet Taluk and also recommended for assignment of the land to the members of the Association. The District Revenue Officer (DRO) after considering the recommendation of the Tahsildar, directed him to change the Revenue Records in the name of the Association. Thereafter, an enquiry was conducted by the Tahsildar for fixing the value of the land, at that time the Association sought for more extent of land, as the Association have 2000 members and the District Revenue Officer had also sent a recommendation to the first respondent for granting patta. Since no action was taken on the recommendation of the DRO, the Association filed a Writ Petition before this Court in W.P.No.9944 of 1993 and this Court, by an order dated 21.08.2000, directed the first respondent to consider their representation and pass orders. Consequently, by an order dated 04.01.2001, the first respondent rejected the request of the Association for assignment of land. The said order was challenged by the Association in another Writ Petition in W.P.No.974 of 2001 and the same was dismissed on the ground that as the Association was not in existence and they cannot seek for assignment of land in favour of the members.

3. Challenging the above order, a Writ Appeal was filed in W.A.No.1443 of 2003, which was disposed of holding that the assignment of land should be done as per law. The Association once again filed another W.P.No.18736 of 2003, which was also dismissed by an order dated 08.09.2003, against which, a Writ Appeal in W.A.No.1771 of 2004 was filed and the same was also dismissed.

4. Thereafter, the petitioners herein made a representation dated 14.12.2004, making identical request individually. Since no order has been passed on their representation, the petitioners approached this Court by filing W.P.Nos.4550 to 4559 of 2005. These Writ Petitions were disposed of by this Court on 14.02.2005, directing the authorities to consider their representation. Even then, no order has been passed. Hence, the petitioners filed another Writ Petition in W.P.No.31305 of 2005, wherein, an interim order was passed not to assign the land in question to any third party. Subsequently, the above writ petition has been disposed of directing the first respondent to consider the petitioner's representation. Pursuant to the same, the present impugned order has been passed, rejecting the petitioners' request. Challenging the above order, this writ petition has been filed.

5. The third respondent filed a counter affidavit stating that the lands in dispute were classified as Manavari "Assessed Waste" in the Okkiyam Thuraipakkam Village and a portion of the above area was allotted to the third respondent for setting up sewerage pumping station at Sakthi Nagar and they have also started constructing Sewerage Plant. It is further stated that the Government has issued a G.O.Ms.No.256, MA & WS (Election) Dept., dated 26.12.2009 for expanding Chennai City, by annexing 42 adjacent local bodies and the Okkium Thoraipakkam is one among them. A detailed project report for 41 local bodies surrounding the above area were approved by a funding agency and the works are under progress in various stages, except Okkium Thoraipakkam. Okkium Thoraipakkam is a thickly populated area having various Institutions and IT Companies and the people in the area have no protected sewerage system and they are polluting the environment.

6. It is further stated that a Sewerage Scheme at Okkium Thoraipakkam has been formulated at the cost of Rs.148.50 crores, which involves the work of providing comprehensive sewerage scheme at Okkium Thoraipakkam, seven sewage pumping stations are planned. Out of the seven pumping stations, one of the main pumping station is in Sakthi Nagar. Due to the pendency of the Writ Petition, the respondent is not in a position to complete the project.

7. It is further stated in the counter affidavit that at no point of time, the lands were assigned to the petitioners herein and they were not in possession of the lands. The Tahsildar has only sent a proposal recommending for assignment, but the District Revenue Officer has not passed any order to assign the land in favour of the erstwhile Association and no mutation was also taken place in the Revenue Records. Moreover, the claim of the above Association was rejected by the concerned authorities and apart from that, now the Association is not in existence and there is also a ban on assignment of house sites in the above area as the lands are most valuable lands. The Government is also not willing to assign the land or issue patta to the members of the Association, hence, they cannot claim as a matter of right seeking assignment. The issue raised in this writ petition is already decided by this Court in various Writ Petitions and had attained finality long back. The Writ Appeals filed by the Association was also dismissed. Hence the petitioner once again cannot re-agitate the matter.

8. Earlier, when the matter was taken up for hearing, the learned counsel for the petitioners filed a memo, dated 20.08.2018 stating that the petitioners 3, 7 and 9 may be permitted to withdraw the Writ Petition. The learned counsel also filed another memo, dated 21.08.2018, withdrawing his appearance for the petitioners 1, 2, 4, 5, 6, 8 and 10. In such circumstances, this Court directed the Registry to print the name of the said petitioners in the cause list. Today, though the names of the said petitioners are printed in the cause list, they are called absent.

9. Heard the learned counsel appearing for the respondents and perused the materials available on record carefully.

10. On a perusal of records, it is seen that the petitioners are the members of the erstwhile Tamil Nadu Private Drivers Wives Association, earlier Association sought for assignment of land, which was rejected by the Government. Challenging the rejection order, the Association has filed number of Writ Petitions, however, all the Writ Petitions came to be dismissed, against which, the Association filed Writ Appeal, which was also dismissed, and the order passed in the Writ Appeal has also become final. That being so, the petitioners, who are all members of the erstwhile Association, filed this Writ Petition in individual capacity, which is not maintainable in law.

11. That apart, now the land sought for by the petitioners has been allotted to the third respondent- the Chennai Metropolitan Water Supply & Sewerage Board for construction of sewerage pumping station and the construction work also started. In such circumstances, the land is also not available for

assignment and hence, the petitioners cannot claim assignment of land. Considering all those circumstances, I find no merit in this writ petition. Accordingly the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

pvs

+2cc to Mr.M.K.Hidayathullah, Advocate, S.R.No.60429
+1cc to Mr.N.Ramesh, Advocate, S.R.No.60387
+1cc to the Government Pleader, S.R.No.60621

To

- 1.The Secretary, Revenue Department,
Secretariat, Fort St., George,
Chennai - 9.
- 2.The Collector,
Office of the Collectorate,
Kancheepuram District,
Kancheepuram.
- 3.The Chief Engineer (Projects)-1,
The Chennai Metropolitan Water Supply & Sewerage Board,
No.1, Pumping Station Road, Chintadripet,
Chennai - 2.

W.P.No.9156 of 2013

SS(CO)

rrs 08/10/2018

सत्यमेव जयते

WEB COPY