

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 20.12.2018
CORAM
THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

WA.No.2800/2018 & CMP.No.23209/2018

1 M.E.Mari
2 M.E.Murugan ..Appellants / Writ Petitioners

Versus

1 The Principal Secretary to Government
Revenue ep/K/3[2] Department
Government of Tamil Nadu,
Fort St George, Chennai-9.
2 The District Collector
Kancheepuram
Kancheepuram District. ... Respondents /
Respondents

Prayer:- Writ Appeal filed under Clause 15 of the Letter Patent against the order dated 10.10.2018 made in WP.No.6027/2013 as against Petitioner filed under Article 226 of the Constitution of India Praying to issue a writ of Certiorarified Mandamus calling for the Records relating to the Impugned Order of the 1st Respondent in GO (நிலை)No.44, Revenue (நிலை)3(2)) dated 12.02.2013 and quash the same and futher direct the Respondent to consider the Claim of assignment of land of the Petitioners in accordance with regulations procedures as laid down in Board Manual /Standing order of the Government and of the other relevant records and Proceedings in this regard.

For Appellants : Mr.K.S.Narayanan
For Respondents: Mr.A.Ansar, GA

JUDGMENT

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

By consent, the writ appeal is taken up for final disposal and is disposed of by this judgment. Mr.A.Ansar, learned Government Advocate accepts notice on behalf of the respondents 1 and 2.

2 The appellants are the writ petitioners and they made a challenge to G.O. [Standing] No.44, Revenue ep/K/3[2] Department, dated 12.02.2013 in and by which,

they were called upon to hand over possession of their land said to have been assigned to them on the ground that the said lands is classified as Grazing Poramboke [Meikkal Poramboke]. The writ petition, after contest, came to be dismissed on 10.10.2018 with certain directions and challenging the legality of the order, the writ petitioners had come forward to prefer the present writ appeal.

3 It is the case of the appellants/writ petitioners that both of them are cultivating and carrying on agricultural operations in a piece and parcel of land admeasuring to an extent of 2.43 hectares [6 acres] classified as ''Punja poramboke'' in S.No.52 of Melkandai Village from the year 1970 onwards. According to the appellants/writ petitioners in the ''Jamabandhi'' held during the year 1974, the jurisdictional Revenue Divisional Officer vide proceedings in K.Dis.PR 932/1974, dated 20.05.1974, granted temporary permission to the appellants/writ petitioners to enter upon the land and do agricultural operations and accordingly, they started doing agricultural activities by spending huge amount to make the land worthy of such operations.

4 The appellants/writ petitioners continue to make representations seeking for assignment of the land and the Joint Secretary to the Department concerned vide letter dated 29.09.1981 called for a report from the Collector of Chengalpattu District to cause inspection of the said land in their occupation and find out whether the assignment of the said land could be given in their favour and accordingly, the jurisdictional Tahsildar had inspected the land in question and submitted a report that the appellants/writ petitioners are in occupation and possession of the said extent of land. It is the further case of the appellants/writ petitioners that some of the persons who are enmical and developed envy as to their possession of land in question, had attempted to interfere without recourse to due process of law and therefore, OS.No.645/1982 came to be filed on the file of the District Munsif, Chengalpattu, which was renumbered as OS.No.578/1982 when it was transferred to the Court of the District Munsif, Madurantakam and they also obtained interim orders.

5 The appellants/writ petitioners also filed WP.No.1610/1988 praying for issuance of a writ of mandamus to consider their request for grant of patta and the said writ petition was disposed of by directing them to approach the concerned authority and the said rejected on 29.06.1988 and it was also put to challenge in WP.No.8239/1988 and the said writ petition also came to be dismissed on 03.11.1999 and however, the concerned authorities were directed to consider the request for

grant of relief in the light of their possession as cultivators of the land and pursuant to the direction, the 1st respondent had considered the same and rejected the said request vide G.O. [Standing] No.44, Revenue [ep/K/3[2]] Department, dated 12.02.2013.

6 The learned counsel for the appellants / writ petitioners would submit that admittedly, the appellants / writ petitioners continue to remain in possession right from the year 1970 and in the year 1974, permission to enter upon the land by way of temporary measure was

granted and accordingly, they spent huge sum of money for levelling the land and made it good for agricultural operations and admittedly, they are landless poor persons and therefore, their request for assignment ought to have been favourably considered. It is the further submission of the learned counsel that though according to the official respondents, the land in question is classified as 'grazing poramboke', in reality, it is not so and hence, there cannot be any impediment on the part of the official respondents to consider their request of granting patta in respect of the land in their possession and prays for interference.

7 Per contra, Mr.A.Ansar, learned Government Advocate appearing for the respondents would submit that once the lands are classified as Grazing Poramboke, it cannot be assigned to private entities and it can be transferred between Departments subject to exchange of lands and in the impugned order, relevant provisions have been taken into consideration as well as the classification of the lands and a fair decision has been taken to reject the request of the appellants / writ petitioners and it cannot be faulted with.

8 This Court has considered the rival submissions and also perused the materials placed before it.

9 A perusal of the impugned Government Order dated 12.02.2013 would disclose that a fair and reasonable opportunity was afforded to the appellants / writ petitioners and the 1st respondent has taken into consideration of the fact that as per Government Letter [Standing] No.901, Revenue [L1] Department dated 08.07.1986, assignment of Grazing Poramboke [Meikkal Poramboke] has been prohibited and as per G.O [Standing] No.186, Animal Husbandry and Fisheries Department dated 11.12.2001, the land classified as Grazing Poramboke, cannot be transferred for any other purpose and as per the Revenue Standing Order 15[38][xiv], Grazing Poramboke land measuring 1 acre, is sufficient for grazing the cattle and therefore, it cannot be assigned in their

favour. The 1st respondent has also taken note of the fact that the Hon'ble Supreme Court of India, in the judgment dated 28.11.2011 in Civil Appeal No.1132/2011, had also laid down the proposition that public land should be kept and maintained for public purpose and after taking into consideration the materials placed, had rejected their request.

10 The learned Single Judge has also taken note of the factual aspects and legal position and found that the grounds raised by the appellants / writ petitioners in the writ petition for assigning vast extent of land measuring about 6 acres, cannot be considered and also in the light of the ban for grant of such kind of assignments in respect of grazing lands. The learned Judge having found that the appellants / writ petitioners have failed to establish any acceptable legal grounds for the purpose of considering their request, thought fit to dismiss the writ petition with certain directions.

11 In the light of the existence of ban for assignment of grazing land, this Court is unable to come to the aid of the appellants / writ petitioners. At this stage, the learned counsel for the appellants / writ petitioners would submit that very recently, the Government has announced a Policy Decision to accommodate persons who are in possession of lands classified as water body and grazing poramboke by giving them alternate sites/lands and the appellants / writ petitioners may be permitted to submit a joint representation with supporting documents and it can be directed to be considered by the authorities concerned and on the said submissions, the Court heard the submission

of Mr.A.Ansari, learned Government Advocate appearing for the respondents.

12 This Court, on an independent application of mind to the entire materials, is of the view that there is no error apparent on the face of the record or infirmity in the reasons assigned by the learned Judge in dismissing of the writ petition and finds no merits in the writ appeal. However, taking into consideration the plea made on behalf of the appellants / writ petitioners, this Court grants liberty to the appellants / writ petitioners to submit a detailed representation along with supporting documents, to the respondents 1 and 2, for allotment of an alternate land/site to them within a period of four weeks from the date of receipt of a copy of this order and upon receipt of the same, the respondents 1 and 2 are directed to consider the said representation in the light of the recent Policy Decision

and pass appropriate orders on merits and in accordance with law within a further period of four weeks thereafter and communicate the decision taken, to the appellants / writ petitioners.

13 In the result, the writ appeal is dismissed subject to above observation. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

AP
To

1 The Principal Secretary to Government
Revenue ep/K/3[2] Department
Government of Tamil Nadu,
Fort St George, Chennai-9.

2 The District Collector
Kancheepuram

Kancheepuram District.

+2ccs to Mr. K.S.Narayanan, Advocate SR.No.88835
+1 CC TO GOVERNMENT PLEADER SR.NO. 89146

WA.No.2800/2018

A.SK(11/02/2019)

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