



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD)No.1599 of 2018

WEB COPY

1. Annamary
2. Appavu
3. Chellammal
4. Chinnaiah
5. Dhanapal
6. Sakthivel
7. Savariyammal
8. Singamuthu
9. Raj Kumar
10. Velusamy
11. Loordhumary
12. Innasimuthu
13. Periyasamy
14. Gnanaprakasam
15. Anthoniammal
16. Thangaraji
17. S.M.Palaniyandi
18. Chellaiyah
19. Narayana
20. Natarajan
21. Arokiyaswamy
22. Mariaselvam
23. Dhanapal
24. Victor Joseph
25. Arulandhu
26. M.Arumugam
27. Ashok Kumar
28. Sabari Doss
29. Palaniyandi
30. Sakthivel
31. Seethalakshmi
32. Perumal
33. Arulananthu
34. N.Subramaniyan
35. Muthuveeran
36. Balasundaram
37. Arumugam
38. Selvi
39. P.Saroja
40. Manivel
41. Banumathy

... Petitioners

Vs.

1. The Authorised Officer,
Land Reforms,
Tiruchirapalli.



2. The Assistant Commissioner,
Land Reforms,
Tiruchirapalli.

3. The Director of Land Reforms,
Chepauk,
Chennai-5.

4. The Tahsildar,
Kulathur Taluk,
Pudukottai District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the second respondent to issue patta to the landless petitioners which are now declared as surplus under Tamil Nadu Reforms Fixation of Ceiling on Land Act, 1961 as per proceeding of first respondent dated 26.09.1983 and allot the land to the petitioners.

For Petitioners
For Respondents

: Mrs.Asha
: Mr.Ayiram K.Selvakumar
Additional Government Pleader

O R D E R

Establishing a legal right is a pre-condition for entertaining a writ petition under Article 226 of the Constitution of India. In the absence of establishing any semblance of legal right, no writ can be entertained nor any direction can be issued to the public authorities.

2. A mere direction sought for to consider the representation cannot be a point for this Court to entertain a writ petition. Mostly, such directions are sought for in order to create a cause of action by the litigants. Filing of a writ petition and obtaining an order of direction to consider the representation cannot be a ground for constituting or creating further cause of action to continue the litigation or to acquire a right. Under such circumstances, necessarily this Court has to go into the point whether the writ petitioner has established any legal right or not. The orders of the High Court are to be implemented by the authorities as it is and mostly such an idea of getting an order is to create a cause of action and to continue further litigations or to acquire further rights by virtue of any such directions that was issued by the High Courts under Article 226 of the Constitution of India.

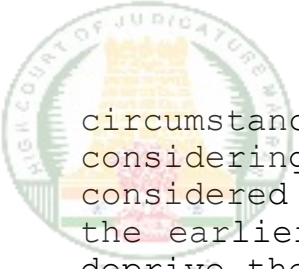
3. The learned counsel for the writ petitioners pursued this Court appealingly by stating that the writ petitioners are poor, landless and belong to socially backward communities. This Court is certainly convinced with the arguments so advanced by the learned



counsel for the writ petitioner. However, this Court cannot act on misplaced sympathy or by showing leniency, which is in contravention with the legal principles settled by the Apex Court of India.

4. Showing any such misplaced sympathy or leniency should not affect the rights of the millions of people of this great nation. It is the duty of the constitutional Courts to see that the rights, more specifically the constitutional or statutory rights are equally protected in respect of all persons. Merely filing a writ petition cannot be a solution for the writ petitioners. There are large number of such poor landless people are starving in our country. Such being the facts, these all are the policies to be formulated by the Government so as to extend such benefits equally to all the poor landless persons. Contrarily if this Court passes an order in respect of very few writ petitioners, certainly this Court would be causing discrimination in respect of all other eligible landless poor people, who are starving in this great nation. Equality in availing the Government policies are also a constitutional right. Equal opportunity in getting the concessions and policies are also important perspective of the constitution. No doubt allotting or assigning the land to the poor landless people by the State is the concession. However, such concession is to be provided equally to all people. Thus, the Government has to formulate a policy, prepare the list of persons, who are eligible assignees / allottees in District wise and State wise and thereafter provide equally to all the eligible candidates, so as to avoid any discrimination amongst the citizens of this country.

5. The learned counsel for the petitioners referred the order of this Court passed on 26.04.2017, directing the petitioners therein to approach the authorities by way of a representation. This Court cannot pass such chain of orders, so as to provide certain benefits only to a group of people. Such directions would certainly create an anomalous situation, which is not certainly preferable. Such directions for consideration can be issued only in the event of establishing a legal right. In the absence of legal right, the policies or otherwise has to be formulated and implemented uniformly by the State, so as to provide equal opportunity to all the similarly placed persons, who belongs to a class. The earlier directions issued will not of any avail to the present writ petitioner. On a perusal of the earlier order of this Court, it is clear that it is only an order passed by this Court by way of the concession. However, the order earlier passed cannot be followed as a binding precedent. The judgments settling the legal principles alone can be followed as a binding precedent. The orders passed by the Courts on peculiar facts and circumstances need not be followed as a binding precedent. Such orders are passed only based on certain peculiar facts and this cannot have a chain of action for passing hundreds of orders on the same line so as to paralise the public administration. Thus, this Court is of an undoubted opinion that the judgments settling the legal principles by the higher Courts are the binding precedent and the orders passed based on certain facts and



circumstances need not be followed by this Court for the purpose of considering the other writ petitions. The writ petition has to be considered based on its own merits and demerits and merely following the earlier direction will create an anomalous situation, so as to deprive the rights of other citizen.

6. In view of this matter, no further adjudication needs to be entertained in this writ petition. Accordingly, the writ petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Authorised Officer,
Land Reforms,
Tiruchirapalli.
2. The Assistant Commissioner,
Land Reforms,
Tiruchirapalli.
3. The Director of Land Reforms,
Chepauk,
Chennai-5.
4. The Tahsildar,
Kulathur Taluk,
Pudukottai District.

+1cc to M/S.Thenmozhi, Advocate SR.No. 44496
+1cc to Special Government Pleader, SR.No. 44778

W.P. (MD) No. 1599 of 2018
29.01.2018

AKV
JM/SV MMS/SAR 4/14.02.2018/4P/7C