



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 04.01.2018

DELIVERED ON : 09.01.2018

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CORAM:

**THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MRS.JUSTICE R.HEMALATHA**

W.P(MD)No.11885 of 2017

Ex.Mill Workers Employees Welfare Union,
represented by its
Secretary,
R.Palanivelu,
Shri.Meenakshi Mills Ltd.,
Affiliated to All India Trade Union Congress,
Sri Shanmuga Bhavanam,
Pasumalai,
Madurai - 4. ... Petitioner

Vs.

- 1.Union of India,
represented by
The Secretary,
Department of Ministry of Works and Housing,
Office of the Ministry of Works and Housing,
Government of India,
New Delhi.
- 2.The Government of Tamil Nadu,
represented by
The Chief Secretary,
Fort St. George,
Chennai.
- 3.The Government of Tamil Nadu,
represented by
The Secretary,
Housing and Urban Development Department,
Fort St. George,
Chennai.
- 4.The Government of Tamil Nadu,
represented by
The Secretary,
Department of Labour and Industries,
Fort St. George,
Chennai.



5.The District Collector,
Madurai District,
Madurai.

6.Gujarat Heavy Chemicals Ltd.,
Unit Sri Meenakshi Mills Ltd.,
Dindigul Road,
Paravai,
Madurai District.

7.M.Liza

8.S.Ananth

9.A.Lakshmi

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents 2 to 4 to conduct an enquiry and consequently, to cancel the sale proceedings in respect of the houses situated in Door Nos.11, 12 and 161 at Thiagarajar Labour Colony, Pasumalai, Madurai, in favour of the respondents 7 to 9 and re-transfer the houses to Ex-Mill Workers in Madurai Shri Meenakshi Mill and consequently, direct the respondents 1 to 5 to recover the excess sale amount received from the mill workers in the earlier sale proceedings and refund the same to the mill workers as per the norms provided by the State and Central Governments.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mrs.L.Victoria Gowri for R.1

Mr.M.Murugan,
Government Advocate for R.2 to R.5
Mr.M.Sridhar for R.6

Mr.D.Sadiq Raja for R.7 to R.9

ORDER

M.SATHYANARAYANAN, J.

This writ petition is styled as a Public Interest Litigation. The affidavit is sworn to by R.Palanivelu, Secretary of Ex-Mill Workers Employees Welfare Union, Sri Meenakshi Mills Limited, Pasumalai, Madurai.

2. It is averred in the writ petition that Sri Meenakshi Mills Limited, Madurai, commenced its operation in the year 1942 and was having the labour force of 1,000 labourers. In the year 1955, the Management of the said Mills took a decision to construct



residential houses for the welfare of the labourers working in the said Mills under a subsidized housing scheme for industrial workers known as 'Integrated Subsidized Housing Scheme' and the said scheme is for the benefit of industrial workers and economically weaker sections and landless persons.

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3. The petitioner would further aver that on the application made by the said Mills, the then Government of Madras had agreed to acquire the lands admeasuring to an extent of 23 acres and using the Government subsidy and availing long term loans, the Management of the Mills had constructed 161 residential houses with space/land for public utility, viz., park, play ground, roads and also drainage system on meagre rental basis of Rs.10/- (Rupees Ten only) and Rs.12/- (Rupees Twelve only) and the said amount was used to be deducted from and out of the wages paid to the Mill workers.

4. It is further averred by the petitioner that during the year 1979, the Government taking into consideration the plea and prayer made by the workers, decided to sell the above said houses to the Mill workers by fixing the sale price as per the norms and guidelines prescribed by the first respondent in letter No.N-14019/1/77-H1, dated 14.02.1979. In the year 1987, the Management of the Mills, according to the petitioner, had arbitrarily fixed the sale price of the residential premises at a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) and Rs.28,000/- (Rupees Twenty Eight Thousand only) without following the norms and guidelines prescribed by the first respondent and arbitrarily increased the sale price from a sum of Rs.70,000/- (Rupees Seventy Thousand only) to a sum of Rs.1,10,000/- (Rupees One Lakh and Ten Thousand only) without taking into consideration the interest and welfare of the labourers and their capacity to pay the same. The petitioner would further state that in respect of the scheme of 'Integrated Subsidized Housing Scheme', the Housing and Urban Development Department, vide G.O.Ms.No.128, Housing and Urban Development (SC.3) Department, dated 24.03.1997, had fixed the sale price at Rs.9,600/- (Rupees Nine Thousand and Six Hundred only) per house.

5. It is the specific case of the petitioner that the lands admeasuring to an extent of 23 acres were acquired by the Government for the benefit of M/s.Sri Meenakshi Mills Limited, Madurai, especially, for the benefit of workers employed therein and the Management of the said Mills has no power whatsoever either to arbitrarily fix the sale price or to transfer or alienate the same in favour of somebody. However, the Management of the said Mill had arbitrarily sold valuable lands and superstructures bearing Door Nos.11, 12 and 161 in favour of the close relatives of higher officials of erstwhile Sri Meenakshi Mills Limited, Madurai, as well as M/s.Gujarat Heavy Chemicals Limited (in short 'M/s.GHCL') - the sixth respondent herein, which has subsequently taken over the company by way of three registered sale deeds in Document Nos.1046 of 2009, 1047 of 2009 and 1048 of 2009 and such act on the part of the Management of the said Mill, is wholly illegal and arbitrary.

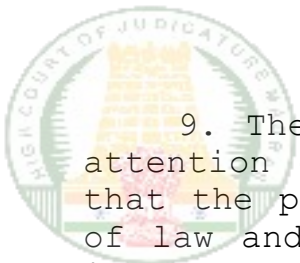


The petitioner Union, in this regard, submitted very many representations and last of such representations was submitted on 02.01.2017 to the respondents 1 to 4. Despite receipt and acknowledgment, no action has been taken so far to cancel the sale deeds and resume the lands in favour of the Government and therefore, the petitioner came forward to file this writ petition styled as a Public Interest Litigation.

6. Mr.T.Lajapathi Roy, learned Counsel for the petitioner has drawn the attention of this Court to the typed set of documents and would submit that as per G.O.Ms.No.3276, Industries, Labour and Co-operation Department of Government of Madras, dated 08.10.1957, the lands admeasuring to an extent of 4.72 acres of various survey numbers of Thirupparankundram village were acquired and as per the terms and conditions, in the event of the company being wound up or in the event of failure on the part of the company to carry out the terms of the agreement, the lands shall be liable to be resumed and taken back by the Government on repayment to the company of the amount of the ward as finally settled at the rate of 15% of the awarded amount for compulsory acquisition or the estimated market value and though the company has become sick and the Management has been transferred to M/s.GHCL Limited, such a resumption has not been done and on the contrary, the present Management had conveyed the valuable lands at a throw away price in favour of the wards of the managerial employees for extraneous and other consideration.

7. The learned Counsel for the petitioner has also drawn the attention of this Court to G.O.Ms.No.971, Housing and Urban Development Department, dated 15.07.1987, G.O.Ms.No.128, Housing and Urban Development Department, dated 24.03.1997 as well as the guidelines issued by the Government of India dated 14.02.1979 and would submit that the acquired lands for the benefit of the erstwhile Management should have been converted to the Mill workers and on the contrary, for extraneous and other consideration, it has been conveyed to the wards of managerial employees and as such, the prayer is sought for by the petitioner to cancel the sale proceedings in respect of the superstructures bearing Door Nos.11, 12 and 161 of Thiyagarajar Labour Colony, Pasumalai, Madurai and transfer the same to the Ex-Mill workers of Sri Meenakshi Mills Limited, Madurai, with a further direction to recover the excess sale amount received from the Mill workers and refund the same to the Mill workers.

8. Mr.M.Murugan, learned Government Advocate appearing for the respondents 2 to 5 would submit that as per the agreement between Sri Meenakshi Mills Limited, Madurai and the State Government in G.O.Ms.No. 3276, Industries, Labour and Co-operation Department, dated 08.10.1957, the sale consideration was collected from Sri Meenakshi Mills Limited, Madurai, in respect of the land admeasuring to an extent of 4.72 acres and as such, they have nothing to do with the same.



9. The learned Counsel for the sixth respondent has drawn the attention of this Court to the counter affidavit and would submit that the present writ petition is nothing but, an abuse of process of law and the deponent of the affidavit, purely acted in private interest actuated with *mala fides* and oblique motives.

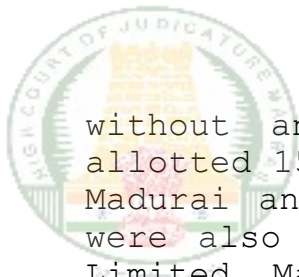
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10. The learned Counsel for the sixth respondent would submit that the deponent of the affidavit was the workman of Sri Meenakshi Mills Limited, Madurai, which merged with the sixth respondent with effect from 01.04.2001 pursuant to a scheme sanctioned by the Board for Industrial and Financial Reconstruction at New Delhi ("BIFR") and the petitioner, as a union leader, involved in union activities and exhibited a hostile attitude to the new management and he has also affiliation to certain political outfits and made a claim for a dwelling unit free of cost and it was turned down and therefore, came forward to file this writ petition styled as Public Interest Litigation.

11. Insofar as the sale of superstructures bearing Door Nos.11, 12 and 161, through the registered sale deeds of the year 2009, is concerned, it is the submission of the learned Counsel for the sixth respondent that as per the official records maintained by them, the seventh respondent is the daughter of T.Malaiarasan; the eighth respondent was the son of J.Sreenivasan and the ninth respondent was the wife of N.S.Arivazhagan, who are the ex-employees of Sri Meenakshi Mills Limited, Madurai and would further add that the acquired lands to an extent of 4.72 acres in Thirupparankundram, were conveyed in favour of the Management of Sri Meenakshi Mills Limited, Madurai, for sale consideration and the site and the superstructures which were conveyed to the above said persons located in different survey numbers altogether and Sri Meenakshi Mills Limited, Madurai, owned 19.07 acres of land and as such, the claim of the petitioner is wholly unfounded.

12. It is the further submission of the learned Counsel for the sixth respondent that Sri Meenakshi Mills Limited, Madurai, had acquired 23.79 acres of land in Thirupparankundram village for construction of staff quarters for its employees, out of which, 4.72 acres of land was acquired and assigned to Sri Meenakshi Mills Limited, Madurai, by the State of Tamil Nadu and the balance extent of 19.07 acres were private patta lands purchased from private land owners. In respect of 4.72 acres of land assigned to the management of Sri Meenakshi Mills Limited, Madurai, for consideration, the land admeasuring to 0.34 acres of land was acquired by the State of Tamil Nadu for the National Highways Department for laying NH-7 and another extent of 0.96 acres of land was used for the same purpose and the remaining extent of 3.44 acres of land was used by the erstwhile Management for its housing project.

13. It is further submitted by the learned Counsel for the sixth respondent that Sri Meenakshi Mills Limited, Madurai, had constructed 161 dwelling houses by availing long term mortgage loans from the Department of Works and Housing, Government of India,



without any contribution from the members of the society and allotted 158 houses to the employees of Sri Meenakshi Mills Limited, Madurai and three dwelling houses bearing Door Nos.11, 12 and 161 were also sold to the employees of erstwhile Sri Meenakshi Mills Limited, Madurai.

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14. It is also the submission of the learned Counsel for the sixth respondent that as far as fixation of consideration for sale of houses, it is the subject matter of bi-partite meeting between the Management of the erstwhile Sri Meenakshi Mills Limited, Madurai, and the union representatives and the value has also been arrived at by the Chartered Engineers and the petitioner under the guise of filing this writ petition, sought to re-open the said issue settled more than 30 years ago and would further add that the Government Orders relied on by the petitioner were of no application to the case on hand for the reason that they are general in nature and they apply to economically weaker sections, who got allotment originally and the above said three houses were not meant for industrial workers and hence, prays for the dismissal of this writ petition.

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

16. The following lands were acquired by the Government of Tamil Nadu and it is relevant to extract the details as under:

Survey Number and Subdivision (1)	Classification (2)	Extent (3) ACS
45.2	Government, Dry	0.84
45-3A	Government, Dry	0.27
45-3B-1	Government, Dry	0.53
41-5A	Government, Wet	0.14
42-8	Government, Wet	0.35
41-2A1-B	Government, Wet	0.59
42-11A1-B	Government, Wet	0.02
42-13B-1	Government, Wet	0.01
47-8A1-B	Inam, Wet Government, Wet	0.34
25-1B	Government, Wet	0.28
25-7A	Government, Wet	0.07
27-1A	Government, Wet	0.12
27-4A	Government, Wet	1.15
Total		4.72



17. As per G.O.Ms.No.3276, Industries, Labour and Co-operation Department, dated 08.10.1957, an agreement came into being between Sri Meenakshi Mills Limited, Madurai and the State Government and the contents of the same would disclose that M/s.Sri Meenakshi Mills Limited, Madurai, shall pay to the Government before the said land is transferred to the company, the cost of the same will be settled by the District Collector and the Government shall not be bound to give possession of the land until all the money has been paid to them by the company and it is also subject to certain terms and conditions. It is relevant to extract hereunder clause (d):

"(d). That in the event of the Company being wound up or in the event of failure on the part of the company to carry out the terms of the agreement that is to say conditions (a) to (c) above the lands shall be liable to be resumed and taken back by the said Government on repayment to the company of the amount of the ward as finally settled laps the 15 per cent awarded for compulsory acquisition or the estimated market are values of the land at the time of resumption whichever is less and if there are any buildings on the land the said Government may at their option either purchase the buildings on payment of their estimated value at the time or direct the Company to remove the buildings at its own cost, within such time as may be allowed by the said Government."

18. It is not disputed by the respondents 2 to 5 that consideration was paid for such assignment and the possession of the lands acquired was also handed over to the Management of Sri Meenakshi Mills Limited, Madurai.

19. The primordial case of the petitioner Union from the affidavit filed in support of this writ petition appears to be that the lands admeasuring 23 acres were acquired and given to M/s.Sri Meenakshi Mills Limited, Madurai, wherein they have put up 161 dwelling houses and the superstructures bearing Door Nos.11, 12 and 161 were conveyed for a paltry sum in favour of the wards of managerial employees.

20. This Court has also perused three sale deeds dated 23.09.2009, viz., a sale deed dated 23.09.2009 registered as Document No.1047/2009; another sale deed dated 23.09.2009 registered as Document No.1046/2009 and yet another sale deed dated 23.09.2009 registered as Document No.1048/2009.

21. The survey numbers in the first sale deed are 42/4, 42/6, 42/7 and 42/11 admeasuring to an extent of 4707 sq. ft. and the superstructure of 50 years old having plinth area of 905 sq. ft. The second sale deed is in respect of S.No.42/1 having the measurement of 2913 sq. ft. and a superstructure of 50 years old having plinth area of 706.3 sq. ft and the third sale deed pertains to an extent



of 2309.35 sq. ft. in S.Nos.42/1 and 42/4 with a superstructure of 50 years old having plinth area of 706.3 sq. ft.

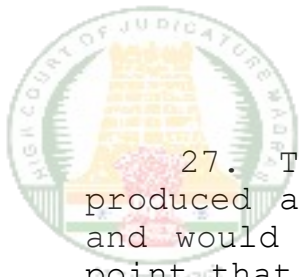
22. It is pertinent to point out at this juncture that as per the aforesaid chart, 0.35 cents of land was acquired in S.No.42/8 and 0.02 cents of land was acquired in S.Nos.42/11A1/B and as per the counter affidavit of the sixth respondent, out of 4.72 acres of acquired and assigned in favour of Sri Meenakshi Mills Limited, Madurai, for consideration, after acquisition for laying of road, a smaller extent of 3.44 acres of land is only available and that apart, they had also purchased 23.79 acres of land and it is their private patta lands.

23. The petitioner miserably failed to establish that the superstructures existed on the acquired lands and even assuming for the sake of argument that the superstructures are located on the said land, the undisputed fact remains that the lands were conveyed for consideration to the erstwhile Sri Meenakshi Mills Limited, Madurai. Even as per clause (d), the land will be resumed in favour of the Government when the company being wound up and in the event of failure to carry out the terms of the agreement, i.e., (a) to (c), however, on payment of the amount calculated on 15% awarded for compulsory acquisition or the estimated market value of the land.

24. It is not even the case of the official respondents 2 to 5 that the purpose for the assignment of the lands for consideration in favour of Sri Meenakshi Mills Limited, Madurai, has been violated. It is also very relevant to point out that as per the proceedings of the Board for Industrial and Financial Reconstruction ("BIFR") at New Delhi, a scheme was sanctioned and pursuant to the same, M/s.Sri Meenakshi Mills Limited, Madurai, merged with the sixth respondent and the said scheme is having a statutory backing and it is not even put to challenge by the deponent of the affidavit, who himself is an ex-workman of M/s.Sri Meenakshi Mills Limited, Madurai.

25. The petitioner has failed to substantiate that three sale deeds have been executed for extraneous consideration and it is also to be pointed out that three registered sale deeds came into being as early as on 23.09.2009 and the challenge to the said sale deeds is being made nearly after eight years.

26. The order dated 05.12.2016 made in W.P(MD)No.9613 of 2009 [*Madurai Puranagar Mavatta Panchalai Thozhilalargal Sangam represented by its General Secretary v. Union of India represented by the Secretary, Department of Ministry of Works and Housing and others*], relates to one M/s.Shri Visalakshi Mills which is under liquidation and this Court, while disposing of the said writ petition on 05.12.2006, merely directed the disposal of the representation dated 09.03.2009 submitted by the petitioner association therein.



27. The learned Counsel for the sixth respondent has also produced a copy of the print out from the Registration Department and would submit that the petitioner union has become defunct and point that it has total number of only 11 members and did not hold a general body meeting as a trade union and did not file returns and as such, it is not entitled to prosecute the said union.

28. This Court finds force in the submission of the learned Counsel for the sixth respondent. The petitioner Union either in the cause title or in the affidavit, has not even given the Registration Number of the said Union.

29. The prayer sought for by the petitioner in this writ petition is also very vague and under the guise of filing the so-called Public Interest Litigation, seeks to set aside three registered sale deeds dated 23.09.2009 executed in favour of private respondents and the same is impermissible in law in the light of the reasons assigned above.

30. In the considered opinion of this Court, this writ petition cannot be termed as Public Interest Litigation and the petitioner Union by abuse of process of this Court, filed it as Public Interest Litigation.

31. This Court has already pointed out in earlier paragraphs that the petitioner Union had failed to co-relate the lands which were acquired and assigned to Sri Meenakshi Mills Limited, Madurai, for consideration with that of the site and superstructure conveyed in favour of the private respondents under the three registered sale deeds, dated 23.09.2009.

32. The claim made by the petitioner Union revolves around adjudication of disputed questions of fact and that apart, the petitioner is also guilty of delay and laches and also abuse of process of law and as such, it is not entitled to any indulgence from this Court.

33. Though the cost should follow for having abused the process of this Court, this Court is not inclined to do so for the reason that the petitioner union appears to have supported the cause of the workmen of the erstwhile Sri Meenakshi Mills Limited, Madurai and as such, not to mulct them with costs.

34. In the result, this writ petition is dismissed. However, in the facts and circumstances, there shall be no order as to costs.

Sd/-

Assistant Registrar (CSI)

/True Copy/



1.The Secretary to Government,
Union of India,
Department of Ministry of Works and Housing,
Office of the Ministry of Works and Housing,
Government of India, New Delhi.

2.The Chief Secretary,
Government of Tamil Nadu,
Fort St. George,
Chennai.

3.The Secretary,
Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St. George,
Chennai.

4.The Secretary,
Government of Tamil Nadu,
Department of Labour and Industries,
Fort St. George,
Chennai.

5.The District Collector,
Madurai District,
Madurai.

+One cc to Mr.T.Lajapathi Roy, Advocate, SR.No.41285

+One cc to M/s.L.Victoria Gowri, Advocate, SR.No.41256

+One cc to Mr.M.Sridhar, Advocate, SR.No.41054

+One cc to Mr.D.Sadiq Raja, Advocate, SR.No.41133

+One cc to The Special Government Pleader, SR.No.41537

rsb

RL/11C/10P/SKN/RSK/SAR2/22/1/2018

ORDER MADE IN
W.P (MD) No.11885 of 2017