



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.11.2018

CORAM

WEB COPY

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
AND
THE HONOURABLE MR.JUSTICE C.SARAVANAN**

W.A.(MD)No.121 of 2013
against W.P.(MD).No.13056 of 2011 and
M.P.(MD).No.1 of 2013

K.R.Vellaisamy

... Appellant/Petitioner

Vs.

1. The District Collector,
Trichirapalli District,
Trichirapalli.
2. The Revenue Divisional Officer,
Trichirapalli Revenue Division,
Trichirapalli.
3. The Tahsildar,
Thiruverumbur Taluk,
Trichirapalli District.
4. The Managing Director,
Tamil Nadu Housing Board,
Nanthanam, Chennai.

... Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent against the order passed by this Court in W.P.(MD).No.13056 of 2011, dated 17.11.2011.

Prayer in WP(MD). 13056 of 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st respondent to issue necessary direction to the 2nd and 3rd respondent to assign the Patta to the land under the petitioners possession, bearing survey No. 310 situated at Navalpattu Village to an extent of 6 Acres, based on the petitioner's representation made to the 1st respondent dated 15/03/2011.

For Appellant	: Mr.R.R.Kannan
For R1 to R3	: Mr.D.Muruganantham Additional Government Pleader
For R4	: Mr.R.Venkatesan for Mr.V.Sivaramalingam

**JUDGMENT****[Judgment of the Court was delivered by S.S.SUNDAR, J.]**

The writ appeal has been filed against the order passed by this Court in W.P. (MD) .No.13056 of 2011, dated 17.11.2011.

2. The appellant claims that he was a freedom fighter having served in I.N.A. He states that he is also a Burma Repatriate. It is stated by the appellant that an extent of 6 acres of land in Survey No.310 at Navalpattu Village, Thiruverumbur Taluk, Trichy District, earmarked was reserved for Burma Repatriates and the possession of the appellant was not disturbed till date. It is also the case of the appellant that he has been cultivating the land and deriving income from there. Since the possession of the appellant was disturbed by the State Housing Board, the writ petition came to be filed by the appellant for issuing a writ of Mandamus directing the first respondent viz., the District Collector to issue necessary direction to the second and third respondents to assign the Patta for the land, based on the appellant's representation made to the first respondent in 2011. The writ petition was dismissed by the learned Single Judge of this Court recording a finding that the land belonged to Government came to be transferred to the Tamil Nadu State Housing Board. It is further held that the appellant was an encroacher and that he was also evicted by following due process of law. The appellant has filed an earlier writ petition in W.P.(MD). No.1906 of 2005, without impleading the State Housing Board. However, the said writ petition was also dismissed. Since the appellant has no right or title over the land, the present writ petition was dismissed as the appellant is not entitled to lay a claim as against the title of the Tamil Nadu Housing Board.

3. The learned counsel for the appellant though submitted that the appellant's possession for several decades is not in dispute and that he is entitled to allotment of land, as per the Scheme of the Government, no document or material is produced before this Court to show that the land was assigned or earmarked or reserved for the petitioner by any order of Government or competent authority. The appellant himself has produced before this Court several documents showing that he has paid 'B' Memo till 1994. The appellant by paying 'B' Memo has accepted the title of the Government.

4. The learned counsel appearing for the Housing Board submitted that on 10.06.1981, about 600 acres of land including the land to which the appellant has laid a claim, came to be handed over to the Tamil Nadu Housing Board by the Government. It is further stated that in 1983, compensation for the land that was transferred to Housing Board by the State Government was paid in part.

5. From the facts narrated by the learned counsel appearing for



the Housing Board, it is evident that the entire land belonged to Government came to be vested with Tamil Nadu Housing Board from 1981. The Housing Board has developed the land and formed a lay out in 1985. Thereafter, proceedings were initiated against the appellant also for evicting the appellant from the land. After successful eviction, the appellant seems to have encroached once again to claim right on the basis of his possession from 1960. Mere possession by anyone will not create or confer any right in favour of anyone. Admittedly, the appellant himself has admitted the title of Government. Once the Government has assigned the land in favour of Tamil Nadu State Housing Board, on the basis of the appellant's possession from 1960 or even earlier will not give any right to seek the prayer for assignment or for Patta.

6. In that view of the matter, this Court finds no merit in the appeal and the writ appeal is dismissed confirming the order of learned Single Judge in W.P.(MD).No.13056 of 2011, dated 17.11.2011. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-I)

To

1. The District Collector,
Trichirapalli District,
Trichirapalli.
2. The Revenue Divisional Officer,
Trichirapalli Revenue Division,
Trichirapalli.
3. The Tahsildar,
Thiruverumbur Taluk,
Trichirapalli District.
4. The Managing Director,
Tamil Nadu Housing Board,
Nanthanam, Chennai.

+ 1 CC TO Mr.R.R.KANNAN, ADVOCATE IN SR No. 94934
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 95184

AKV

TE/BK/SAR-1 : 14/12/2018 : 3P/7C

W.A. (MD) No.121 of 2013
12.11.2018