

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.07.2019

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THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.15162 of 2007 &
M.P.Nos.1 and 2 of 2007 &
W.M.P.No.5001 of 2017

Chettinad Cement Corporation Ltd.,
Rep. by its Company Secretary,
Rani Seethai Ammal Hall, 603,
Anna Salai, Chennai - 600 006. Petitioner

Vs

1. The Principal Special Commissioner,
Land Administration , Chennai - 600 002.
2. The District Collector,
Dindigul District.
3. The Revenue Divisional Officer,
Dindigul.
4. The Tahsildar,
Vedasandur Taluk. Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for the records relating to the proceedings of the fourth respondent in Na.Ka.10190/02/1A2, dated 14.03.2007 and quash the order passed therein and consequently direct the respondents 1 to 3 to issue assignment order for 46.92 acres of porambokku/ waste land in Alambadi and Kottanatham Village, Vedasandur Taluk, Dindigul District.

For Petitioner : Mr.M.Suresh Kumar

For Respondents : Mr.A.Kumar
Additional Advocate General
Assisted by Mr.D.Suriyanarayanan
Additional Government Pleader

ORDER

Heard Mr.M.Suresh Kumar, learned counsel for the petitioner; Mr.A.Kumar, learned Additional Advocate General, assisted by Mr.D.Suriyanarayanan, learned Additional Government Pleader for the respondents and perused the materials placed on record.

2. This Writ Petition has been filed for issuance of Writ of Certiorarified Mandamus, to quash the proceedings of the fourth respondent, dated 14.03.2007 and direct the respondents 1 to 3 to issue assignment order for 46.92 acres of poramboke/ waste land in Alambadi and Kottanatham Village at Vedasandur Taluk, Dindigul District.

3. According to the petitioner, the land measuring an extent of 47.47 1/2 acres in Alambadi and Kottanatham Village at Vedasandur Taluk, Dindigul District has been classified as poramboke and is under the occupation and enjoyment of the petitioner, since 1965. The petitioner Company has been paying a 'B' memo charges promptly. By a communication dated 31.01.1983, the fourth respondent requested the petitioner to take up the land on lease or on assignment. Though the petitioner had immediately responded giving consent for assignment of land on payment of double market value, the fourth respondent, by a communication dated 24.08.1988 has returned the proposal for assignment of land with a direction to submit a fresh proposal for lease, but the petitioner-Company insited for assignment of land and was not interested in getting lease of the land.

4. The petitioner would further state that the second respondent issued a notice for resumption of the land and thereafter there were exchange of communications. While so, on 12.01.2004, the fourth respondent issued a notice to pay an amount of Rs.51,71,043/- as lease amount for the period from 1971 to 2003 for the lands encroached by the petitioner Company and on 14.03.2007, the impugned order has been issued, directing the petitioner-Company to pay a sum of Rs.73,44,176/- as lease amount for the period from 1971 to 2007.

5. The impugend notice has been challenged by the petitioner, contending that there was no privity of contract as the petitioner-Company was not a lessee and the Company is entitled for assignment of the land.

6. Though the impugned order has been challenged on various grounds, the learned counsel for the petitioner submitted that the petitioner is ready to pay the amount claimed in the impugned notice and he prayed for a direction to the respondents to assign the land in favour of the petitioner.

7. Per contra, the learned Additional Advocate General would urge that it is true that the petitioner is not a lessee for the land in dispute, but in the impugned communication, it has been wrongly stated as "lease amount". However, admittedly, the petitioner is an encroacher and hence is liable to pay damages for the use of the land.

8. Indisputably the petitioner has been squatting on the property of the Government without paying any amount for the past about 50 years. Hence, this Court is of the opinion that the petitioner is liable to pay interest for the amount claimed under the impugned communication.

9. In the light of the submission made by the learned counsel for the petitioner, the main prayer to quash the impugned notice does not survive for consideration by this Court. Hence, the petitioner is directed to pay the amount of Rs.73,44,176/- along with interest at the rate of 9% per annum, within a period of two weeks from today.

10. On a perusal of the records, it is seen that the application of the petitioner for assignment of the land was already returned, by a communication of the fourth respondent, dated 24.08.1988. It is to be noted that no provision of law or Government Order has been shown to the satisfaction of this Court for the petitioner's entitlement to get assignment. The petitioner instead of challenging the order dropping the proposal of assignment of land in a manner known to law has sought for a direction to assign the land without any legal basis. Hence, this Court does not find any merit in the contention of the learned counsel for the petitioner and therefore, the prayer seeking for a direction to assign the land is rejected.

11. It is appropriate to point out that the amount claimed under the impugned notice is for a period from 1971 to 2007. It seems that due to the pendency of the Writ Petition, no further demand was made to recover the damages for the subsequent period. Hence, the respondents are directed to initiate proceedings forthwith to collect the damages for use and occupation of the land in question from the petitioner for the subsequent period from 2007.

12. With the above directions, the Writ Petition is dismissed. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

Post the matter on 05.08.2019 for reporting compliance.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Special Commissioner,
Land Administration , Chennai - 600 002.
2. The District Collector,
Dindigul District.
3. The Revenue Divisional Officer,
Dindigul.
4. The Tahsildar,
Vedasandur Taluk.

+1 cc to M/s.M.Suresh Kumar, Advocate, S.R.No.61120

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CP(CO)
SSM(22/07/2019)

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