

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2019

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.3641 of 2003
and WMP.No.4604 of 2003

1.T.Ramanathan

2.M/s.H & R Johnson (India) Ltd.,
'Raheja', 3rd Floor
Corner of Main Avenue & V.P.Road,
Santacruz (West)
Mumbai 400 054.

...Petitioners

P2 impleaded as per order of Court dated
22.12.2005 in WPMP.No.3638 of 2005

Versus

1.The Land Commissioner cum Secretary,
Revenue Department,
Government of Pondicherry,
Pondicherry.

2.The Authorised Officer (Land Reforms),
cum Deputy Collector,
Revenue,
Karaikal, Pondicherry.

..Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records from the First Respondent, the Land Commissioner-cum-Secretary, Revenue Department, Government of Pondicherry, Pondicherry, relating to the Order passed by him in R.P.No.1 of 2002 dated 2.12.2002, confirming the order passed by the second respondent, the Authorised Officer (Land Reforms)-cum-Deputy Collector, Revenue, Karaikal in MRI No.112 dated 28.3.2001 and quash the same.

For Petitioner : Mrs.Vasudha Thiagarajan
for Mr.R.Thiagarajan

For Respondents : Ms.N.Mala
Additional Government Pleader
Puducherry

O R D E R

This writ petition has been filed to quash the Order passed by the 1st Respondent, the Land Commissioner-cum-Secretary, Revenue Department, Government of Pondicherry, Pondicherry, in R.P.No.1 of 2002 dated 2.12.2002, confirming the order passed by the 2nd respondent, the Authorized Officer (Land Reforms)-cum-Deputy Collector, Revenue, Karaikal in MRI No.112 dated 28.3.2001.

2.The case of the petitioner is that a Land Reforms proceedings was initiated as against the petitioner's paternal grandfather viz., late Sri Muthukumaraswamy Pillai, in respect of properties said to have been held by him under the provisions of the Pondicherry Land Reforms (Fixation of Ceiling of Land) Act, 1973 (Pondicherry Act 9 of 1974). Initially there was a dispute in between one Natesa Pillai, Nambikkai Mary Ammal and others with the petitioner's grandfather and has filed a suit in O.S.No.10 of 1972 before the District Judge, Pondicherry as against the petitioner's grandfather and others, claiming title over the properties on the basis of a Will left by one Lakshmi Achi. The learned District Judge upheld the Will of Lakshmi Achi to half the extent holding that she had powers of disposition over one half and only a life estate in the other half. Nambikkai Mary Ammal and other filed an appeal before this Court in A.S.No.917 of 1974 contending that Lakshmi Achi had powers of disposition over the entire property. The petitioner's grandfather late Muthurkumarasamy Pillai filed cross appeal before this Court contending that Lakshmi Achi had only an infructuary right over the properties without any power of disposition and that her will is bad in law. During the pendency of the appeal proceedings before this Court, the petitioner's grandfather hoping to succeed in his cross appeal made various bequests of entire properties under a registered Will dated 02.03.1975. Pending appeal, the petitioner's grandfather died on 17.12.1976 and M.Sathiamoorthy and the petitioner's father viz., Thirugnanasambandam were impleaded as legal heirs of Sri Muthukumarasamy Pillai and the matter was compromised and a decree was passed in terms of compromise and the legatees under the Will of Sri Muthukumarasamy Pillai are to share equally between themselves half of the suit properties given to them under the compromise decree. After the demise of Muthukumarasamy Pillai, the petitioner's father late M.Thirugnanasambandam and the petitioner's paternal uncle late M.Sathiamoorthi, became the owners of the subject properties set out in Schedule 'B' of the compromise decree. However, the Pondicherry Government initiated proceedings under the Land Reforms Act as against the petitioner's grandfather Muthukumarasamy Pillai, though Muthukumarasamy Pillai died before the compromise entered between the parties and proceeded even after the compromise entered before this Court and an extent of 10.89.73 standard

acres was declared as surplus land. However, pending proceedings the property was alienated by the petitioner's father late M.Thiruganasambandam, who had dealt with the property in favour of one Mrs. Vasantha, who in turn sold the property in favour of one Seethalakshmi, who had in turn sold the property in favour of the 2nd petitioner viz.M/s.H & R Johnson (India) Ltd by a sale deed dated 03.09.2004. Though the petitioner's father and the paternal uncle requested the 2nd respondent to withdraw the proceedings initiated against his paternal grandfather late Muthukumarasamy Pillai since he is not the owner of the properties at the relevant point of time and to initiate proceedings as against the petitioner's father viz., M.Thirugnanasambandam and his paternal uncle viz., M.Sathiamoorthi, the sons of deceased Muthukumarasamy Pillai and to find out whether each of them were holding lands within the ceiling limits or otherwise. Without considering the request of the petitioners father and paternal uncle, the 2nd respondent initiated proceedings dated 28.03.2001 and the same was confirmed by the 1st respondent in R.P.No.1 of 2002. Challenging the said orders of respondents, the petitioner has filed the present petition with the aforesaid prayer.

3.Heard both sides.

4.Mrs.Vasudha Thiagarajan, learned counsel appearing for the petitioner would submit that the petitioner purchased the property from the subsequent purchaser, who had purchased the property from the petitioner's father late M.Thirugnanasambandam and Sathiamoorthi and that property was acquired by the Pondicherry Government in the year 2004. At the instance of the 1st petitioner, the 2nd petitioner was also impleaded as party. Subsequently, the 2nd petitioner made an application before the Pondicherry Government and he is ready to provide the alternative site equivalent to the extent of the site purchased by him. However, the Pondicherry Government in its letter dated 01.07.2019 has informed that the value of the land proposed to be surrendered is not equal value to the surplus land.

5.The learned Additional Government Pleader (Pondicherry) appearing for the respondents reiterated that the respondents have taken steps to collect the application form from the 2nd petitioner in a complete shape in order to send the proposal for consideration of the government through the Revenue Department. However, the 2nd petitioner did not sent his application in a proper format either due to non submission of the land documents or due to lesser extent. She has also produced a communication dated 30.07.2019 in this regard. The learned Additional Government Pleader further submitted that if the 2nd petitioner submits his application in a proper format with relevant documents, the same would be considered by the respondents in accordance with law.

6.In view of the above submission and also on perusal of the communication by the Government of Puducherry dated 30.07.2019, this Court directs the petitioner to make a fresh application in a proper formate along with necessary documents indicating the equivalent extent of land for alternative site to the respondents within four weeks from the date of this order. On receipt of such application, the respondents viz., Government of Puducherry shall consider the petitioner's application and pass orders on merits and in accordance with law as expeditiously as possible.

7.With the above observation, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Land Commissioner cum Secretary,
Revenue Department,
Government of Pondicherry,
Pondicherry.

2.The Authorised Officer (Land Reforms),
cum Deputy Collector,
Revenue,
Karaikal, Pondicherry.

+1cc to Mr.R.Thiagarajan, Advocate, SR.70342
+1cc to the Government Pleader cum public prosecutor
for Pondicherry, High court, Madras. SR.69939

W.P. No.3641 of 2003
and WMP.No.4604 of 2003

EV(CO)
CB(04/10/2019)