

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.06.2019

CORAM

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.Nos.18329 and 18330 of 2008

V.Kamaraj ..Petitioner in W.P.No.18329 of 2008
R.Kannagi ..Petitioner in W.P.No.18330 of 2008

vs

1. The Revenue Divisional Officer,
Dharmapuri Revenue Division,
Dharmapuri District.
2. Kannammal
3. Bhanumathi ..Respondents in both the petitions

[R2 & R3 are impleaded as per the order of this Court dated 25.11.2008 in M.P.Nos.1, 1 of 2008 in W.P.Nos.18329 and 18330 of 2008]

Common Prayer:-

The Writ Petition is filed under Article 226 of the Constitution of India seeking for a Writ of Mandamus to direct the respondent to consider the petitioner's representation dated 06.12.2007 and pass orders on the same for assignment and possession, within a time frame as may be fixed by this Court.

For Petitioner : M/s.S.Sathia Chandran
(in both the petitions)

For Respondents : Ms.P.Rajalakshmi, AGP, for R1
(in both the petitions) R2- Dismissed vide Court order
R3- No Appearance

COMMON ORDER

Heard Mr.S.Sathia Chandran, learned counsel for the petitioners and Mrs.P.Rajalakshmi, learned Additional Government Pleader for the first respondent and perused the materials available on record.

2. The petitioners, who are brother and sister, have come forward with these Writ Petitions for issuance of a Writ of Mandamus directing the first respondent to consider their representations dated 06.12.2007.

3. The petitioners would state that the lands in Survey Nos.9/1, 9/2, 9/5, 10/2 and 12/2 in Annalapatti Revenue Taluk, Dharmapuri District were conditionally assigned in favour of their grand father Perumal Sakkli S/o. Maduppan @ Maran and patta was also issued in his favour. However, due to illiteracy, ignorance and indigent conditions, the lands were transferred in favour of third parties. The Revenue Board's Standing Order No.15 governs the terms and conditions and necessary actions have to be followed in case of breach of conditions.

4. The learned counsel for the petitioners would state that the first respondent has statutory duty to ensure that the lands assigned to the members of the Schedule Caste and Schedule Tribe are fully protected and preserved. The inaction on the part of the first respondent is condemnable. It is further stated that on 06.12.2007, representations were given to the first respondent, but no action was taken.

5. A counter affidavit has been filed by the first respondent stating that it is true that the lands referred supra were conditionally assigned in favour of one Perumal Sakkli. The father of the petitioners herein, who is the son of the original assignee, viz., Vellamaran sold the lands in favour of his own brother Pattathan, vide sale deed, registered as Document No.806 of 1953. Subsequently, the said Pattathan sold the lands in favour of one Naina Gounder, vide sale deed, registered as Document No.1057 of 1956. The purchaser in turn sold the property to one Mathivanan, who also belongs to the Backward Community.

6. In the counter affidavit, it is further stated that for the violation of conditional assignment, it was cancelled and the classification of the land was changed to Tharisu by an order dated 29.11.1974. The encroachers in the land viz., Kannamal, Banumathi and Radha were evicted after following the due process of law. Hence, the petitioner has no right to claim for assignment of the land.

7. A rejoinder has been filed by the petitioner stating that the Government has to resume the possession and allot the same in favour of the petitioner.

8. In the case on hand, it is not in dispute that the lands in various survey numbers referred supra were originally assigned in favour of the grand father of petitioner, viz., Perumal Sakkli and the assignment was cancelled for violation of the conditions of the assignment in the year 1974. The petitioners would claim that they are entitled for assignment and possession of the DC lands, but no relevant provisions or law has been cited in support of their contentions.

9. At this juncture, the learned counsel for the petitioner would state that admittedly the Government has resumed the land and now it has been classified as Tharisu and the petitioners are ready to give fresh representation and it can be considered by the respondents in accordance with law.

10. In the light of the above facts, I find no merit in these Writ Petitions. Hence, the Writ Petitions are dismissed with liberty to the petitioners to give fresh representations to the competent authority and the same can be considered purely on merit and in accordance with law as expeditiously as possible. No costs.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

pvs

To

The Revenue Divisional Officer,
Dharmapuri Revenue Division,
Dharmapuri District.

+1cc to M/s.S.Sathia Chandran, Advocate, S.R.No.46454
+1cc to the Government Pleader, S.R.No.46945

W.P.Nos.18329
and 18330 of 2008

GP(CO)
CS/26/07/2019

सत्यमेव जयते

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