

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2019

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P.No.19378 of 2009

1.K.Jeyakodi
2.C.Kannaiyan

...Petitioners

Vs.

1.The Revenue Divisional Officer,
Tiruvannamalai Revenue Division,
Tiruvannamalai-606 601,
Tiruvannamalai District.

2.R.Pachaiammal

3.R.Murugan

... Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus calling for the records on the file of the 1st respondent in his proceedings Letter No.O.Mur./(A4)/2128/2007, dated 04.07.2008 and quash the same and consequently directing the 1st respondent to resume the grant and order re-enter and take possession of the land bearing Survey No.56/2 situated at Periapalipet Village, Chengam Taluk, Tiruvannamalai District, measuring an extent of 1.92.5 hectares and re-assign the said land in favour for the petitioners.

For Petitioners : Mr.J.Selvarajan

For Respondents : Mr.I.Sathish, AGP for R1
Mr.M.Vijay Anand for R2 and R3

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O R D E R

Heard Mr.J.Selvarajan, learned counsel for the petitioner, Mr.I.Sathish, learned Additional Government Pleader for the 1st respondent and Mr.M.Vijay Anand, learned counsel for respondents 2 and 3 and perused the materials placed on record.

2.The petitioner has come forward with this writ petition for issuance of Writ of Certiorarified Mandamus calling for the records of the first respondent for his proceedings vide Letter No.O.Mur./(A4)/2128/2007, dated 04.07.2008 and quash the same and consequently directing the 1st respondent to resume the grant and order re-enter and take possession of the land bearing Survey No.56/2 situated at Periapalipet Village, Chengam Taluk, Tiruvannamalai District, measuring an extent of 1.92.5 hectares and re-assign the said land in favour fo the petitioners.

3.According to the petitioner, by an order dated 03.11.1970, the Tahsildar, Chengam, granted patta in favour of the petitioner's grandfather Alli in respect of the property in S.No.56/2 situated at Periapalipet Village, Chemgam Taluk, Tiruvannamalai District, measuring to an extent of 1.92.50 hectares under Depressed Class classified land scheme. The said Alli sold the property to one Renu Gounder on 11.06.1981.

4. It is further stated that One Kannu Gounder filed a suit in O.S.No.697 of 1983 against the said Renu Gounder on the file of the District Munsif Court, Thiruvannamalai, for recovery of money and on the basis of the decree, the Execution Petition in E.P.No.640 of 1983 was filed and the properties under dispute was sold in Court Auction on 16.10.1985 in which, respondents 2 and 3 have purchased the property.

5.It seems that the petitioners made representations in the year 2007 for resumption of the land, however, by the impugned order dated 04.07.2008, the first respondent has rejected the request of the petitioners and directed the parties to approach before the Civil Court. Against which, the present Writ Petition has been filed.

6.The learned counsel for the petitioners by citing the decision of this Court in the case of V.G.P.Prem Nagar v. The State of Tamil Nadu reported in 2010 (3) CTC 845 would argue that if any alienation is made in contravention of the Standing Order 15 (9) of the Board of Revenue, the land shall be resumed by the Government.

7. Per contra, learned Additional Government Pleader appearing for the first respondent would argue that even according to the petitioners, the land was sold after lapse of 10 years. It is further submitted that the property was sold in Court Auction in E.P.No.640 of 1983 and if the petitioners are aggrieved over the auction sale, they have to approach the competent civil Court. The first respondent after considering the facts of this case, rightly rejected the representation of the petitioners and directed them to seek remedy through Court of law.

8. It is an admitted fact that the land in question was assigned in favour of the petitioners' grandfather in the year 1970 and it was sold in the year 1981. According to the learned counsel for the petitioner, even after a lapse of 10 years, the land could be sold only to the person, who is under Depressed Class. It is relevant to mention that the property in question was subsequently sold in an execution proceedings arising out of the suit in O.S.No.697 of 1983 and the respondents 2 and 3 are the Court auction purchasers. After lapse of 30 years, the petitioners have made the representations to resume the land. In view of the facts and circumstances of the case, the first respondent has rightly rejected the request of the petitioners by the impugned order dated 04.07.2008. The decision does not help the petitioners as it is distinguishable on facts. Hence, I do not find any reason to interfere with the order of the first respondent.

9. In the result, the writ petition fails and the same is dismissed. No costs.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

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To
The Revenue Divisional Officer,
Tiruvannamalai Revenue Division,
Tiruvannamalai-606 601,
Tiruvannamalai District.

+1cc to Mr.M.Vijay Anand, Advocate SR.No.71477

+1cc to Government Pleader SR.No.72109

LN(CO)
GMY(11/10/2019)

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