

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:29.08.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.27805 OF 2010

AND M.P.NO.1 OF 2010 & WMP.NO.22645 OF 2019

AND

W.P.NO.28586 OF 2010

W.P.No.27805 of 2010:

Srilatha

... Petitioner

Vs.

1. Commissioner, Land Reforms,
Chepauk, Chennai 600 005.

2. The Assistant Commissioner (L.Ref.),
Land Reforms, Erode.

3. District Revenue Officer,
Tiruppur.

4. Revenue Divisional Officer,
Tirupur.

5. Vijayamohan.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records pertaining to the order dated 19.11.2010 in D.1/R.P.No.6/2010 (L.Ref.) passed by the 1st Respondent and quash the same.

W.P.No.28586 of 2010:

- 1.Vijaya Mohan
- 2.Abdul Rahman
- 3.T.K.Dakshayani
- 4.T.K.Rajagopal
- 5.T.K.Jeyalakshmi
- 6.Velusamy
- 7.K.Lakshmanan

8.S.Ravichandran
9.Somasundaram
10.Murugan

...Petitioners

Vs.

1. The Principal Commissioner and
Commissioner for Land Reforms,
Chepauk, Chennai 600 005.
2. The District Collector,
Tiruppur District.
3. The District Revenue Officer,
Tiruppur District.
4. The Revenue Divisional Officer,
Tiruppur, Tiruppur District.
5. The Joint Commissioner,
Land Reforms, Erode.
6. The Assistant Commissioner,
Land Reforms, Erode.
7. Tahsildar,
Palladam Taluk,
Tiruppur District.

8. Srilatha

9. S.Latha.

...Respondents

Common Prayer:

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the respondents 1 to 7 to implement the order dated 14.9.2010 and 09.11.2010 passed by the fourth respondent and the first respondent by removing the WIND MILL and other encroachments erected by the respondents 8 and 9 in the land comprised in S.No.98/2, 120/1, 120/2 and 119 measuring 10-57 acres, situated in Anuppampatty Village, Palladam(Taluk), Tiruppur District and restore possession of the same to the petitioners herein in accordance with the Tamil Nadu Land Reforms Act 1961.

For Petitioner

in W.P.No.27805 of 2010 : Mr.K.V.Sundararajan
in W.P.No.28586 of 2010 : Mr.M.Venkateswaran

For Respondents

in W.P.No.27805 of 2010 : Mr.J.Ramesh for RR1 to 4
Additional Government Pleader

Mr.M.Venkateswaran for R5

in W.P.No.28586 of 2010 : Mr.J.Ramesh for RR1 to 7
Additional Government Pleader

Mr.K.V.Sundararajan for R8

Mr.D.Selvaraju for R9

COMMON ORDER

The case of the petitioner in W.P.No.27805 of 2010 is that in the year 1968, the subject lands of 10.57 acres comprised in S.F.Nos.98/2, 119, 120/1, 120/2 have been assigned in favour of one Narayanasamy Gounder by the Revenue Divisional Officer, Coimbatore, under the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act with certain conditions. Thereafter, the said Narayanasamy Gounder conveyed the said lands in favour of one Rathinammala in 1989, who in turn sold the land to one Ramesh in the year 1993. The said Ramesh sold the lands to the petitioner in the year 2003. After the purchase of the lands by the petitioner, patta was transferred in favour of the petitioner and patta pass book was also given to the petitioner by the Thasildar, Palladam in favour of the petitioner. Whiles, the 4th respondent viz., The Revenue Divisional Officer, Palladam, had passed an order dated 04.05.2007 directing the Thasildar, Palladam Taluk to delete the name of C.Ramesh, the petitioner's vendor from the patta in Taluk and Village Accounts on the ground that the original assignment made in favour of Narayanasamy Gounder in the year 1968 had been cancelled for violation of condition as per authorized Officer, Erode in Ref.No.4815/78, dated 20.05.1979. Aggrieved by the order of the 4th respondent, the petitioner has filed an appeal before the 3rd respondent to set aside the order of the respondent dated 04.05.2007 and the same was allowed and remanded back the matter to the 4th respondent for fresh enquiry and disposal. Thereafter, the 4th respondent directed the petitioner to approach the 2nd respondent viz., Assistant Commissioner Land Reforms, Erode. As against, the petitioner filed a revision before the 3rd respondent in R.P.No.5626 of 2009, which was dismissed on the same grounds referred to by the 4th respondent in his order dated

04.05.2007. Thereafter, the petitioner preferred suit and the same is pending before the Sub-Judge, Tiruppur. Pending suit, the petitioner preferred a writ petition before this Court in W.P.No.20190 of 2010, wherein this Court disposed of the petition directing the 4th respondent not to enforce the order dated 08.07.2010 made in Na.Ka.No.5626/09/12 till the finality of the suit. Thereafter, the petitioner preferred an appeal before the 1st respondent. However, the same was dismissed by an order dated 19.11.2010. Aggrieved by the said order, the petitioner has filed the present petition.

2.The case of petitioner in W.P.No.28586 of 2010 is that in addition to the above facts, the assignment made in favour of the original assignee Narayanasamy in 1968 was cancelled vide an order dated 20.05.1979 and the lands were assigned to these writ petitioners only by an order dated 10.05.1996. The case of the petitioner that cancellation of assignment after lapse of 5 years is unsustainable one. Therefore, the writ petitioners are before this Court with the aforesaid prayer.

3.Heard both sides.

4.The learned counsel for the petitioners in W.P.No.28586 of 2010 would submit that the very same petitioner in W.P.No.27805 of 2010 has already instituted a suit before the Sub-Court, Tirupur in O.S.No.300 of 2008 for the relief of Declaration and permanent injunction and the said suit was decreed in favour of the petitioner and the same was confirmed by a judgment dated 21.11.2016 in A.S.No.87 of 2011 by the Principal District Court, Coimbatore, as against which a Second Appeal in S.A.No.700 of 2017 was preferred before this Court and the same is pending. Hence, the authorities have no jurisdiction to reiterate the same matter before this Court by way of a writ petition, until the second appeal is disposed of.

5.The learned Additional Government Pleader did not dispute the facts submitted by the learned counsel for the petitioners.

6.It is an admitted fact that the subject matter of the land in dispute is pending before this Court in S.A.No.700 of 2017. Rendering any opinion on the merits of the case will affect the rights of the parties. Hence, this Court is not inclined to interfere with the orders passed on 04.09.2010 and 19.11.2010 by the 4th and 1st respondents.

7.Accordingly, these writ petitions are closed. However, the liberty is granted to the petitioners as well as respondents to work out their remedy after the disposal of the second appeal.

No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Commissioner and
Commissioner for Land Reforms,
Chepauk, Chennai 600 005.
2. The Assistant Commissioner (L.Ref.),
Land Reforms, Erode.
3. The Joint Commissioner,
Land Reforms, Erode.
4. The District Collector,
Tiruppur District.
5. The District Revenue Officer,
Tiruppur.
6. The Revenue Divisional Officer,
Tirupur.
7. The Tahsildar,
Palladam Taluk,
Tiruppur District.

+1cc to Mr.D.Selvaraju, Advocate, S.R.No.75967
+2ccs to Mr.K.V.Sundararajan, Advocate, S.R.No.75154, 75155
+2ccs to Mr.M.Venkateswaran, Advocate, S.R.No.74799, 74800
+1cc to the Government Pleader, S.R.No.76163

W.P.Nos.27805 & 28586 of 2010

SS(CO)
CS/26/12/2019