

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:02.01.2019

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAN

W.P.No.31271 of 2005
and
W.M.P.No.2616 of 2005

1.H.P.Raja
2.M.Sigamani
3.Ponnammal
4.K.Subramania Chettiar
5.V.Marimuthu
6.J.Abdul Shukkur Petitioners

Versus

1.The Special Commissioner and
Commissioner of Land Administration,
Chepauk,
Chennai - 600 005.
2.The Collector,
Dharmapuri,
Dharmapuri District.
3.The Tahsildar,
Pennagaram,
Dharmapuri District. Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the first respondent in Rc.No.G1/25045/04 dated 27.04.2005 and quash the same and direct the respondents to allot the land in Survey Number 1103/11, Koothapadi, Pennagaram Taluk and issue Patta to the petitioners as stated in the report of the third respondent in Na.Ka.5283/2002 (A3) dated 30.07.2002.

For Petitioners : Mr.P.Manojkumar

For Respondents : Mr.R.Janaki
Addl. Govt. Pleader
R.1 to R.3

O R D E R

The order passed by the Special Commissioner and Commissioner of Land Administration in proceedings dated 27.04.2005 in respect of the claim of the writ petitioner for assignment of house site in Dharmapuri District, Pennagaram Taluk, Koothapadi village in Survey Number 1103/11 is under challenge in the present writ petition.

2. The learned counsel appearing on behalf of the writ petitioner states that the writ petitioners wherein possession of the land in S.No.1103/11. However, they were evicted during the year 1998 and thereafter, they preferred an appeal before the Special Commissioner for reconsideration of their cases and for assignment of the said land in their favour. The Special Commissioner conducted an enquiry and passed an order on 27.04.2005 stating that the petitioners are not eligible for grant of assignment with reference to the rules in force and accordingly, the appeals filed by the writ petitioners were rejected, challenging this order the present writ petition has been filed.

3. The learned counsel for the writ petitioner states that petitioners are eligible for assignment as per the Government guidelines. However, their claims were not considered by the Appellate Authority erroneously. The learned Government Advocate appearing on behalf of the respondent states that the Appellate Authority found that the writ petitioners were not eligible for grant of assignment of the Government land at free of cost and the Appellate Authority on enquiry found that the writ petitioners were not the poor houseless persons. Thus, the order of rejection is in accordance with law as no infirmity as such.

4. This Court is of an opinion that, assignment of the Government land at free of cost can never be claimed as a matter of right. Assignment/Allotment of public lands ought to be made strictly in accordance with the terms and conditions of the scheme if any implemented by the Government. Even while implementing all such schemes for grant of assignment/allotment of public lands at free of cost, the Authorities Competent have to implement the scheme uniformly and considering all the similarly placed persons who all are landless poor and not having any properties. Thus, the factual verification in this regard ought to be complied with strictly before assigning the public lands. In all circumstances, the public properties ought to be utilized for the welfare of the public and for implementation of the Government policies in the interest of public.

5. Assignment of land is an exemption and the scheme is to be formulated for the welfare of the poor landless people and therefore, strict verification of the factors are highly warranted. In the present case on hand, the writ petitioners were evicted even during the year 1998. They preferred an appeal. The Appellate Authority also found that the writ petitioners are not eligible for assignment of Government land at free of cost. This being the factum, now after a lapse of about 20 years from the date of eviction, the case of the writ petitioners need not be considered by this Court in the present writ petition. If at all the writ petitioners are eligible as per the scheme, it is left open to them to approach the Competent Authorities with reference to the terms and conditions of the scheme and by filing a fresh application in the manner known to law.

6. With these observations, these writ petitions stands dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Special Commissioner and
Commissioner of Land Administration,
Chepauk, Chennai - 600 005.

2.The Collector,
Dharmapuri, Dharmapuri District.

3.The Tahsildar,
Pennagaram, Dharmapuri District.

+1 cc to Mr.P.Rajendran, Advocate Sr.No.88
+1 cc to The Government Pleader, Sr.No.1039

W.P.No.31271 of 2005

SV(CO)
CSL/30.01.2019