

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 26..09..2019

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.36316 of 2005
and

W.M.P.No.39186 of 2005

Dharman

... Petitioner

-Versus-

- 1.The District Collector,
Nagapattinam.
- 2.The Special Tahsildar,
[Relief and Rehabilitation],
Nagapattinam.
- 3.The Tahsildar,
Sirkali, Nagapattinam District.
- 4.The Executive Officer,
Arulmigu Sayavaneswaraswamy Temple,
Sayavanam, Sirkali (Tk),
Nagapattinam (Dist),
Pin 609105.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents to vacate their illegal occupation of land in S.No.374/1 in Keezhaiyur, Sirkali Taluk, Nagapattinam District and restore the possession to the petitioner and also to pay to the petitioner reasonable compensation for their illegal occupation of land from January, 2005.

For Petitioner : Mr.S.Sounthar

For Respondent(s) : Mr.M.Maharaja, Spl. G.P.
for RR1 to 3

Mr.G.Sugumaran for R4

ORDER

This writ petition has been filed for a writ of mandamus directing the respondents to vacate their illegal occupation of the land in S.No.374/1 at Keezhaiyur village in Sirkali Taluk, Nagapattinam District and for restoration of possession to the petitioner and also for compensation for the illegal occupation of the land from January, 2005.

2. According to the petitioner, he was a cultivating tenant in respect of 2 Acres of land comprised in S.No.374/1 at Keezhaiyur Village, Sirkali Taluk, Nagapattinam District, under the 4th respondent and he was paying lease amount to the 4th respondent regularly. While so, in the year 2005, the 3rd respondent and the other revenue officials entered into the lease-hold land and put up temporary shelters to house the families whose residential houses were damaged by Tsunami. When the petitioner approached the respondents, he was informed that the land in question was required for the Government to give temporary relief to the persons affected by Tsunami, and the possession would be restored to him. Since no steps have been taken thereafter to return the lease-hold land, the petitioner had given legal notice which was not at all considered by the respondents. In the above circumstances, he has come up with the present writ petition.

3. The 4th respondent filed his counter affidavit inter alia contending that it is a public temple under the control of Hindu Religious and Charitable Endowment Department. The petitioner was a cultivating tenant under the temple and was a defaulter in payment of rent and there were huge arrears of rent. Therefore, the 4th respondent had initiated proceedings against the petitioner for eviction in O.P.No.1414 of 1999 before the Revenue Court. The above said petition was allowed and delivery was also taken by the temple. While so, on 26.12.2004, Tsunami wave seriously affected East Coast of Tamil Nadu and more than thousand of houses in and around the village were destroyed. In order to provide permanent shelter to the Tsunami affected families, the Government initiated a proposal to acquire land in question and approached the 4th respondent Temple authorities. When the Tahsildar, Sirkali, requested the Executive Officer of the 4th respondent temple for no objection letter to acquire the land in question, the trust board by their resolution dated 22.0.2005 gave consent for acquiring the land for public purpose. Thereafter, the Commissioner, HR & CE Department, issued a notice on 17.10.2005 inviting objections for alienation by private negotiation. Thereafter, the land was

purchased by the Government by way of private negotiation. The Government took possession of the land from the temple and constructed shelters for the persons affected by Tsunami. The petitioner who was the cultivating tenant under the temple had suffered eviction on account of default in payment of rent and therefore, he cannot have any right to seek for compensation. The writ petition is liable to be dismissed.

4. I have heard the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for the respondents 1 to 3 and the learned counsel appearing for the 4th respondent and also perused the records carefully.

5. The land in question was admittedly belonged to the 4th respondent temple. The petitioner was a cultivating tenant under the 4th respondent temple and the 4th respondent temple filed a petition for eviction of the petitioner default in payment of arrears of rent. Accordingly, the petitioner was evicted and the possession was taken by the temple through the revenue court. Hence, the contention of the petitioner that he was illegally evicted from the lease-hold land by the respondent cannot be countenanced. From a perusal of the records it could be seen that he was evicted by due process of law pursuant to the order of the revenue court in an eviction proceedings initiated by the 4th respondent temple. Thereafter, the land was purchased by the Government by way of private negotiation for the purpose of housing the families of the persons affected by Tsunami by following due process of law. The object of acquisition of land has been achieved by the government. Now, the beneficiaries under the scheme are in occupation of their respective habitations. The petitioner who was evicted by due process of law on ground of non payment of rent cannot claim that he was illegally evicted from the lease-hold land. In view of the above, the petitioner is not entitled to get back the possession of the land in question from the respondents.

6. So far as the claim in respect of compensation is concerned, as already stated, when the petitioner was evicted by following due process of law pursuant to the order of the revenue court, he cannot seek compensation from the respondents.

7. In view of the above discussions, this court does not find any merit in the writ petition and the same deserves only to be dismissed.

8. In the result, this writ petition is dismissed. No costs. Consequently, connected WMP is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The District Collector, Nagapattinam.

2.The Special Tahsildar,
[Relief and Rehabilitation],
Nagapattinam.

3.The Tahsildar, Sirkali,
Nagapattinam District.

+1 cc to M/s.S.Sounthar, Advocate Sr.No. 82984

AKM/31.10.19/4P-5C /

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सत्यमेव जयते

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