

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.9205 of 2010
and M.P.No.1 of 2010

Bharathrathna Dr Ambedkar
Co-operative Housing Welfare Society
Rep. by its Founder-cum-President
M.U.Krishnan alias Krishna Parayanar
Kamaraj Nagar West,
Thiruvanmiyur,
Chennai 600 041.

... Petitioner

vs.

1.The Secretary to Government,
Revenue Department,
Fort St.George,
Chennai-600 009.

2.The Secretary to Government,
Adi-Dravidar and Tribal Welfare Department,
Fort St. George,
Chennai-600 009.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of Certiorarified Mandamus calling for the records pertaining to the order issued by the 1st respondent Letter No.42608/ULC 1(2)06-6 dated 15.02.2008 canceling the G.O.Ms.No.918 Revenue Department dated 19.11.1998 and quash the same and consequently direct the respondents to put the petitioner society of the land comprised in S.No.316/6J of Velacherry Village, Mambalam Guindy Revenue District so as to enable the petitioner society to re-allot the land to the members.

For Petitioner : Mr.T.Sellapandian
For Respondents : Mr.P.Shanmugasundaram
Special Government Pleader (Co-Op.)

O R D E R

This writ petition has been filed to quash the order passed by the 1st respondent vide Letter No.42608/ULC 1(2)06-6 dated 15.2.2008 cancelling the G.O.Ms.No.918 Revenue Department dated

19.11.1988 and consequently direct the respondent to put the petitioner society of the land comprised in S.No.316/6J of Velacherry Village, Mambalam Guindy Revenue District so as to enable the petitioner society to re-allot the land to the members.

2.Heard Mr.T.Sellapandian, learned counsel for the petitioner and Mr.R.Shanmugasundaram, learned Special Government Pleader appearing for the respondents.

3.The learned Special Government Pleader appearing for the respondents submitted that the members of the petitioner Society have already filed writ petitions in W.P.Nos.5000 and 6585 of 2011 with the very same prayer and this Court by an order dated 31.07.2012 has disposed of the writ petitions with a direction to the respondents.

4.Admittedly, the present writ petition was filed by the Bharath Rathna Dr.Ambedkar Co-operative Housing Welfare Society represented by its Founder cum President one Mr.Krishna Parayanar. It is also seen that the members of the said Society had earlier filed Writ Petitions in W.P.Nos.5000 and 6585 of 2011 and this Court by an order dated 31.07.2012 has disposed of the cases with directions to the respondents. The relevant portion of the order dated 31.07.2012 is extracted hereunder:

"20. Normally, one would expect the President of the society itself to come up with a challenge to the order canceling the allotment. But strangely, the society has not come up with a challenge. The reason is not too far to seek. The president of the society himself is guilty of selling atleast 4 plots in flagrant violation of the terms and conditions of allotment. Therefore, I cannot lose sight of the fact (i) that the value of the land was not fixed in pursuance of the allotment order; (ii) that the entire process of allotment was fully not completed with the Government fixing the market value and indicating the individual members of the society to whom the lands are to be transferred; and (iii) that the person claiming to be the President of the society himself had executed at least one sale deed selling four plots in favour of third parties, defeating the very purpose for which the allotment was made.

21. In a writ petition, it is not always necessary to grant relief to the petitioners, even if they make out a good case. It is a discretionary remedy. It is seen from the files and photographs that the petitioners were dispossessed and the property was allotted to the Central Government Department and they have also taken possession. In such circumstances, it

is not possible to set aside the impugned order and put the petitioners back into possession of the land. Such a remedy may be worse than the disease. Therefore, I am of the view that the petitioners who were unlawfully dispossessed from the land duly allotted to a society, should be allotted alternative sites, but without involving the aforesaid society, who President if found to have illegally sold some of the plots.

22. Hence, these writ petitions are disposed of with a limited direction, directing the respondents to allot alternate sites of equivalent size to the petitioners within four months of receipt of a copy of this order. No costs. Consequently, all connected pending MPs are also dismissed."

5. In the light of the above, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is also closed.

s/d-

Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

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To:

1. The Secretary to Government,
Revenue Department,
Fort St. George,
Chennai-600 009.
2. The Secretary to Government,
Adi-Dravidar and Tribal Welfare Department,
Fort St. George,
Chennai-600 009.

+1 CC to Special Government Pleader sr 62786.

W.P.No.9205 of 2010

NR(CO)
SP(26/08/2019)