

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 17.09.2019	Pronounced on: 25.09.2019
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THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition Nos.6507, 6511 & 6512 of 2019
& W.M.P.Nos.7318, 14101, 7322, 14102, 7323, 14104 of 2019

Meenakshi ... Petitioner in WP No.6507/19
Deivathal ... Petitioner in WP No.6511/19
Parvathiammal ... Petitioner in WP No.6512/19

/Vs/

1. State of Tamil Nadu,
Represented by its Secretary,
Urban Development Authority,
Fort St.George, Chennai - 600 009.
2. The Director of Land Reforms and
Secretary, Tamil Nadu, Bhoodan Board,
Office of the Director of land Reforms,
Ezhilagam, Chennai - 600 005.
3. The Special Officer,
Tamil Nadu Bhoodan Board,
Ezhilagam, Chennai - 600 005.
4. The Tashildar,
Tirupur South Taluk,
Tirupur - 641 605.
5. Mrs.Nachammal, ...Respondents in all cases.

Prayer in all cases: Writ Petitions are filed under Article 226 of the Constitution of India, to issue Writ of Mandamus, forbearing the respondents 2 to 4 from initiating any action including passing of any order/direction, so as to dispossess the petitioners from the Schedule property and consequently direct the 5th respondent to approach competent Civil Court having jurisdiction to substantiate her rights, if any, with respect to the Schedule property in the interest of justice and equity.

For Petitioner : Mr.A.R.L.Sundaresan,
in all cases Senior Counsel
 for M/s.Chennai Law Associates

For R1 to R4 : Mr.K.Ravi Kumar,
in all cases Additional Government Pleader

For R5 : Mr.Venkatesh
in all cases

C O M M O N O R D E R

Heard the Learned Senior Counsel for the Petitioners
and the Learned Counsel for the Respondents.

2. The brief facts leading to filing of these three Writ Petitions is that on 23.09.1972, the respondents 1 to 4 executed Deed of Grant for land measuring 2.25 acres each in Survey No.321/1, K.S.Thottam, Selvi Nagar, Nochipalayam Pirivu, Tiruppur, Veerapandi, Tamil Nadu - 641 605 in favour of late Mr.Subramanian husband of Meenakshi (Petitioner in W.P.No.6507 of 2019). Mr.Palanisamy husband of Deivathal (Petitioner in W.P.No.6511 of 2019) respectively. On the same day in the same Survey number, 2.50 acres of land was Grant to Parvathiammal (Petitioner in W.P.No.6512 of 2019). These land were initially donated to Tamil Nadu Bhoodan Board by one K.N.Ramasamy Gounder. The Tashildar, Tiruppur, vide Na.Ka.No.638/96, dated 23.08.1996, issued Patta No.720 and Adangal, in favour of President, Bhoodan Board, Madurai, for the entire 7 acres of land. The Village Administrative Officer, Tiruppur, has issued certificate of ownership in favour of the grantees on 02.06.1998. Similar certificate was issued by the Bhoodan Inspector, Coimbatore on 08.01.2015. While so, in the Writ Petition filed by Mrs.Nachammal/5th respondent herein, the Hon'ble High Court vide order dated 29.01.2015 in W.P.No.13292 of 2013 quashed the proceeding of the Commissioner of land Reforms, dated 21.06.2012 which rejected the petition of Nachammal W/o.V.P.Krishnaswamy claiming return of 6 acres of land in S.No.321/1, earlier gifted to the Bhoodan Movement. Based on the order passed by the Hon'ble High Court, the 5th respondent has made a request to transfer the land to an extend of 6 acres in S.No.321/1 in her name. To the request of the 5th respondent, dated 26.10.2016, the District Revenue Officer, has directed the Tashildar, Tiruppur to enquire and report. Having come to know about that, the Writ Petitioners have issued objections to the 4th respondent/Tashildar, to stop all further proceedings, regarding issuance of Patta in favour of the 5th respondent/Nachammal, in view of their continuous enjoyment of

the property, pursuant to the grant given to them by boothan movement. Hence, the present Writ Petitions filed seeking mandamus forbearing the respondents 2 to 4 from initiated any action including passing of order dispossessing the petitioners from the schedule property and direct the 5th respondent to approach competent Civil Court having jurisdiction to substantiate her right if any.

3. According to the affidavits filed by the petitioners, Late. Ramasamy Gounder has voluntarily donated 7 acres of land in S.No.321/1 to the Bhoodan movement. The gift has become final. The land donated by him has been granted to Mr.Subramaniam, M.Palanisamy, Mrs.Parvathiammal. Meenakshi is W/o.Subramanian and Deivathal is W/o Mr.Palanisamy. After the Deed of Grant in the year 1972, the property was in possession of the petitioners. While so, the 5th respondent/Nachammal, claiming herself as Legal heirs of the donor by suppressing the fact of grant in favour of the petitioners and their predecessor-in-possession filed in W.P.No.13292 of 2013 without impleading the grantees and has obtained order behind the back. The said order is now under challenged in W.A.SR.No.54452 of 2016. While so, the said Nachammal through her son Senthil Kumar as her power agent had given a representation, dated 26.10.2016 and also filed W.P.No.977 of 2016 to issue patta in her name.

4. The petitioner contention is that, the earlier proceedings initiated by Nachammal and her Power agent in W.P.No.13292 of 2013 and W.P.No.977 of 2016 respectively, they are not parties and it is for the State Government to pursue the Writ Appeal filed against the judgment passed in W.P.No.13292 of 2013. In any event, the Tashildar, Tirupur, cannot act upon the representation of the 5th respondent to issue patta in their name when patta already stands in the name of Bhoodan movement and grant in favour of the petitioners.

5. The Learned Counsel appearing for the 5th respondent/Nachammal would submit that, the petitioners are not entitled to maintain the Writ Petitions. The grant given in favour of Subramanian, Palanisamy and Parvathiammal. The grantees have not complied the conditions of the grant. They are not in possession of the property also. The property was granted to them on condition, they should carry agricultural activities and pay the Land Revenue to the Government regularly. Further, the purpose of Bhoodan movement was to grant land to landless Agricultural labourers. Whereas, the Petitioners herein are rich landlords, belonging to the same family. Mr.Ponnusamy, Mr.Palanisamy and Mr.Subramaniam are sons of Karupasamy Gounder. Parvathiammal is W/o.Ponnusamy, Deivathal is W/o. Palanisamy. Meenakshi is W/o.Subramanian.

6. Karrupasamy Gounder in the year 1971, purchased 8 acres of land forming part of S.No.321/1 from the Legal Heirs of Subbiaya Mudaliar. In the year 1972, Karrupasamy Gounder purchased approximately 1 acre of land from father of the 5th respondent and his son Subramaniam purchased another 1 acre of land on 28.01.1973 from the father of the 5th respondent. Thus, Karrupasamy Gounder and his family held 9.97 acres of land in the said S.No.321/1 which was subsequently sub-divided into S.Nos.321/1, 321/1A. K.N.Ramasamy Gounder father of the 5th respondent in the year 1956, donated only 1 acre of land to the Bhoodan Board. But the 3rd respondent/Special Officer, Bhoodan Board, cheated him and altered document as if K.N.Ramasamy Gounder donated 7 acres of land to the Bhoodan movement. On knowing that, 7 acres of land has been transferred to Bhoodan Board instead of 1 acre of land. Representation was given by K.N.Ramasamy Gounder as well as 5th respondent to return back 6 acres. In fact, his entire 15.97 acres of land was mortgaged with Tirppur Co-operative Agricultural Bank, in the year 1962 and on 17.12.1967 K.N.Ramasamy Gounder settled six acres of land in favour of the 5th respondent/Nachammal, leaving only 1 acre for the bhoodan movement. In this connection, the 5th respondent filed W.P.No.13292 of 2013 and by virtue of the order passed by this Court in the said Writ Petition on 29.01.2015, the 5th respondent is entitled to get patta for the 6 acres of land in S.No.321/1. Pointing that, the petitioners, in any event, not entitled to enjoy the grant on the ground that, they are neither landless labourers nor carrying on agricultural activities as per the terms of the grant. The grantees are suppose not to encumber the land to the third parties. Whereas, in violation of the conditions of the grant, the petitioners have executed the power of Attorney and the power agent has taken possession of the property and trying to sell the property by forming layout. So, on the ground of suppression of facts and in view of the order passed by this Court in W.P.No.13292 of 2013 the Writ Petition is liable to be dismissed.

7. The 4th respondents/Tashildar, Tirupur, has filed counter, in all the three Writ Petitions stating that, the land in dispute was donated to Bhoodan movement by K.N.Ramasamy Gounder. In turn, the Board in the year 1972 granted 2.25 acres to Ponnusamy, 2.25 acres to Subramaniam and 2.50 acres to Parvathiammal. At present, the Bhoodan Board, has repossessed the land and the Inspector, Tamil Nadu Boothan Board, Coimbatore has fenced the property and it is under the control and possession of the Bhoodan board.

8. The contention of the 5th respondent/Nachammal is that, her father donated only 1 acre of land was negatived long back and in spite of that, suppressing material facts in W.P.No.13292 of 2013 was filed and same was allowed on

29.01.2015. Aggrieved by the order, the Directorate of Land Reforms has preferred appeal with delay and same is pending in C.M.P.No.285 of 2016 in W.A.SR.No.54452 of 2016. Meanwhile, the power of attorney of the 5th respondent/Nachammal, approached the Tashildar, Tiruppur South Taluk, to issue patta in the name of the 5th respondent by re-conveying the property to an extent of 6 acres. He has filed W.P.No.977 of 2016 to consider and pass orders on the above said representation, dated 26.10.2016. In none of these Petitioners filed by the 5th respondent or her power agent, the petitioners herein are parties. The 3rd respondent has not made any attempt to re-transfer the subject property in favour of the 5th respondent. Therefore, apprehension of the petitioners that the respondents 2 to 4 attempt to dispossess the petitioners from schedule property is unfounded and baseless.

9. Heard Mr.A.R.L.Sundaresan, Learned Senior Counsel for the Petitioners, Mr.Ravi Kumar, Learned Counsel for the respondents 1 to 4 and Mr.Venkatesh, Learned Counsel for the 5th respondent.

10. Perusal of the records and the pleadings of the respective parties would clearly show that the land donated for Bhoodan movement sought to be retrieved by the family of the donor whereas the subsequent grantees of the land resist the said attempt. The purpose of the Bhoodan movement propounded by Late Acharya Vinoba Bhave was to distribute surplus land held by landlords to landless poor. The donor K.N.Ramasmay Gounder, had in good intention gifted 7 acres of land for the said Bhoodan movement, which inturn has been granted to the family members of the Karrupasamy Gounder, who are the present petitioners.

11. From the counter filed by the 5th respondent, it appears that, grant in favour of the petitioner has been violated. Meanwhile, the 5th respondent/Nachammal, without impleading the petitioners, has obtained the order in W.P.No.13292 of 2013, against which intra Court appeal has been preferred and same is pending for condonation of delay.

12. From the counter of the 4th respondent/Tashildar, Tirupur, it appears that the board has recovered the possession and fenced it. The record indicates that though the 5th respondent/Nachammal, has obtained the order from this Court in her favour in W.P.No.13292 of 2013, the said order is behind the back of the grantees. The grant of the land in favour of the petitioners not cancelled, but the possession is taken back by the Board for violation of the grant. In such circumstances, in the interest of justice notwithstanding order passed in W.P.No.13292 of 2013, dated 29.01.2013 which in view of this Court is non est in law for being passed without impleading necessary parties and in view of intra court appeal filed by the 2nd respondent, status quo should be maintained till the parties

work out their remedy before appropriate forum. Till then, the 2nd respondent/Director of Land Reforms, shall retain the possession and title with it.

13. Accordingly, the Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

bsm

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary,
State of Tamil Nadu,
Urban Development Authority,
Fort St.George, Chennai - 600 009.
2. The Director of Land Reforms and
Secretary, Tamil Nadu, Bhoodan Board,
Office of the Director of land Reforms,
Ezhilagam, Chennai - 600 005.
3. The Special Officer,
Tamil Nadu Bhoodan Board,
Ezhilagam, Chennai - 600 005.
4. The Tashildar,
Tirupur South Taluk,
Tirupur - 641 605.

+1cc to Mr.S.Venkatesh, Advocate, SR.No.82362
+1cc to the Govt.Pleader, Vide Sr.No.83193

Writ Petition Nos.6507, 6511 & 6512 of 2019

Kak(23/10/2019)