

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25/11/2019

C O R A M

THE HON'BLE MR.A.P.SAHI, CHIEF JUSTICE

a n d

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

Writ Appeal No.3815 of 2019

a n d

C.M.P.No.24085 of 2019

S. Sakkaraiammal ... Appellant

Vs

1. The District Collector
Tiruppur.

2. The Tahsildar
Udumalpet

Tiruppur District. Respondents

Prayer : Appeal filed under Clause 15 of the Letter Patent against the order dated 12/9/2018, made in W.P.No.31000 of 2014.

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to issue patta for 2 acres of agriculture land in S.No.419/7 in the Ellayamuthur Village, Udumalpet Taluk, Tiruppur District based on the representation of the petitioner dated 25.6.2007 considering the fact that she is a landless farmer belonging to the Scheduled Caste.

For appellant ... Mr.M.Purushothaman

For respondents ... Mr.V.Anandhamoorthy
Additional Government Pleader

J U D G M E N T

(Judgment of the Court was made by the Hon'ble Chief Justice)

Heard the learned counsel for the appellant and the learned counsel for the State.

2. Appellant claims that she is a landless labourer and entitled to allotment of land, as per the Scheme that is contained in G.O.Ms.No.241, Agriculture (W.D.1) Department,

dated 12th September 2006.

3. It is urged that the writ petition was filed in the year 2014 and an interim direction was granted, whereafter, on the date of hearing, a counter affidavit was introduced, levelling allegations as if the appellant was neither in possession nor she could claim for allotment.

4. The learned Single Judge, on the strength of such averments in the counter affidavit has dismissed the writ petition and has gone further issuing general directions for removal of encroachments, in accordance with the procedure contemplated under law and further, to take disciplinary action against erring officials, who have failed to remove such encroachments.

5. It is the contention of the learned counsel for the appellant that claim in the writ petition was for protection of the rights of the appellant, but instead the learned Single Judge has gone further by issuing certain directions which are unwarranted even after dismissing the writ petition.

6. We have considered the submissions raised and the question as to whether the appellant had any semblance of claim over the land or not is a matter for enquiry on the facts as may be placed before the first respondent, who is the authority competent to deal with the matter. The question as to whether the appellant was even in possession or not has been highly disputed on behalf of the State and it is urged that somebody else was in possession and not the appellant. It is the further contention that a couple of private parties have also filed a Civil Suit in this regard which indicates that the appellant was not in possession over the land in question and therefore, any claim for consideration for allotment of such land on lease under the Scheme dated 12th September 2006 does not arise.

7. We have considered the submissions raised and we find that the writ petition could have been disposed of with a simple direction to the first respondent to consider the grievance of the appellant and pass appropriate order after calling for a report from the revenue officials and considering such material that are necessary for the said purpose. Instead the learned Single Judge had rejected the petition and has further issued directions for removal of encroachments in general. We do not find that any such direction was necessary, inasmuch as the writ petition ought to have been disposed of with liberty to the appellant to approach the District Collector.

8. We, accordingly, in modification of the impugned order dated 12th September 2018 hereby provide that the appellant's claim for allotment under the Scheme, as prayed for, may be examined by the first respondent, who may pass an

appropriate order, within a period of twelve weeks from the date of presentation of the certified copy of the above order. It is made clear that we have not examined the claim of either possession or any such right of the appellant on merits in these proceedings.

9. In the result, the writ appeal is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

mvs.

To

1. The District Collector
Tiruppur.
2. The Tahsildar
Udumalpet
Tiruppur District.

+2cc to Mr.M.Purushothaman, Advocate, S.R.No. 98545
+1cc to the Government Pleader, S.R.No. 98457

W.A.No.3815 of 2019

VD(CO)
GN(12/12/2019)

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