



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.2413 of 2019

and

W.M.P. (MD) Nos.1872 and 1873 of 2019

D.Kamalam

... Petitioner

-Vs-

1.The District Collector,
Nagercoil,
Kanyakumari District.

2.The Tahsildar,
Vilavancode Taluk,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, to call for the records on the files of the 1st respondent pertaining to its order bearing M3/25744/2010 dated 01.08.2014 and the consequential order of the 2nd respondent in Na.Ka.A3/6401/2018 dated 03.09.2018 and to quash the same consequentially direct the respondent to release the property of the petitioner in Survey No.513/6B of Painkulam Village, Kanyakumari District admeasuring 0.15.00 hectares within a stipulated time that may be fixed by this Court.

For Petitioner : Mr.S.C.Herold Singh

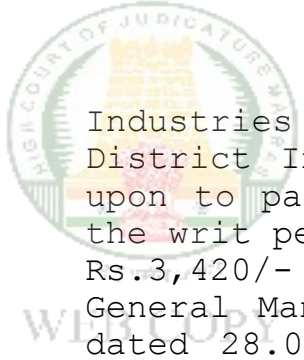
For Respondents : Mr.M.Karuppasamy
Government Advocate

ORDER

Heard the learned counsel on either side.

2.The petitioner's husband Late.L.Dhasan availed loan to the tune of Rs.2,000/- from the District Industries Centre, Nagercoil. This was in the year 1965-66. The petitioner's husband had repaid to the tune of Rs.1,700/-. Since he defaulted in paying the balance amount of Rs.300/-, the petition mentioned property was brought to sale. Since nobody was ready to purchase the property at the public auction, the property was purchased by the Government itself and in the revenue record the property came to be shown as Government property.

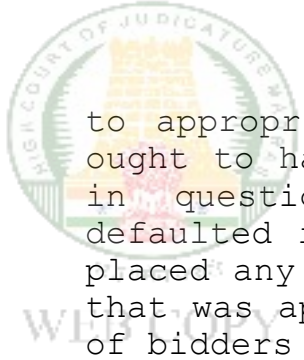
<https://hcservices.ecourts.gov.in/hcservices> 3.It appears that the writ petitioner who is the wife of Late.L.Dhasan was not aware of these developments. She submitted an application dated 28.03.2015 to the General Manager, District



Industries Centre, Nagercoil offering to clear all the dues to District Industries Centre. Thereupon, the petitioner was called upon to pay a sum of Rs.4,640/- and this sum was duly remitted by the writ petitioner. The writ petitioner also paid a further sum of Rs.3,420/- towards kist to the Revenue Authority. Thereupon, the General Manager, District Industries Centre issued a communication dated 28.03.2005 stating that as far as they are concerned, the petitioner is not liable any further. In other words the said communication was like a "no due certificate" issued by District Industries Centre, Nagercoil. Since, the kist due had also been cleared, the Tahsildar, Vilavancode recommended her case vide communication dated 03.06.2010 addressed to the Revenue Divisional Officer, Padamanathapuram. The Revenue Divisional Officer, Padamanathapuram, vide communication dated 20.07.2010 forwarded the proposal to the District Collector, Nagercoil and recommended that the land can be reconveyed and reclassified in favour of the writ petitioner. But then the District Collector by proceedings dated 01.08.2014 took the stand that it is not possible to reconvey the land to the writ petitioner and called upon the Tahsildar, Vilavancode to refund the amount paid by the writ petitioner to the Government. Pursuant to this communication, the Tahsildar, Vilavancode, vide summons dated 13.06.2018 called upon the writ petitioner to furnish the bank details so that the amount could be credited in her bank account by way of refund. These communications are under challenge in this writ petition.

4.The respondents filed a detailed counter affidavit. The learned Government Advocate reiterated the contents set out therein. The primary objection of the respondent is that the property in question was brought to public auction and it was purchased by the Government almost half century ago. The learned Government Advocate placed reliance on RSO No.45. As per the said order, if the land purchased by the Government at sales for arrears of revenue, the erstwhile owner or his legal heirs can apply for reconveyance. Then the procedure laid down in RSO No.45 will have to be followed. In this case, according to the learned Government Advocate, the case of the petitioner does not fall within the terms of RSO No.45.

5.I am of the view that this reliance on Revenue Standing Orders will not help to sustain the order impugned in this writ petition. In the present case, the petition mentioned land was brought to auction in order to settle the dues of District Industries Centre, Nagercoil. The said body had issued "no due certificate" as early as on 28.03.2005. It is beyond dispute that the dues payable to the said body, which had extended loan assistance to the petitioner's husband had been settled in full. It is seen from the communication of the Tahsildar, Vilavancode, and Revenue Divisional Officer, Padamanathapuram that the District Industries Centre had actually issued "no due certificate" in favour of the petitioner herein. The property in question was brought to sale since there was no one to buy the same and the Government chose



to appropriate the property for itself. Then the balance amount ought to have been paid to land owner. In this case, the property in question was brought to sale because Late.Thiru.L.Dhasan defaulted in making payment of Rs.300/-. The respondents have not placed any material before this Court to indicate that the property that was appropriated by the Government because of non-availability of bidders in the general public auction, was worth only Rs.300/- or less. That the stand taken in the counter is that the relevant files are not available. That may be misfortune of the authorities but the misfortune of the respondent cannot become the misfortune of the petitioner. I would rather go by the "no due certificate" issued by the District Industries Centre, Nagercoil, which had advanced the loan amount to the writ petitioner's husband.

6.The Honourable Supreme Court in the decision reported in **(2010) 13 SCC 760 (Shalimar Gas Vs. Indian Oil Corporation Ltd.)** held that law should take a more liberal view in the case of widows, physically handicapped people etc.

7.I therefore hold that the impugned orders deserve to be set aside. They are accordingly set aside and the writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

/ True Copy /

Sub Assistant Registrar(CS)

To:

1.The District Collector,
Nagercoil,
Kanyakumari District.

2.The Tahsildar,
Vilavancode Taluk,
Kanyakumari District.

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-49412[F] dated 25/02/2019)

+1 CC to M/s.SPL GP (SR-49798[F] dated 26/02/2019)

W.P. (MD) No.2413 of 2019
25.02.2019

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