

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2020

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

C.R.P.(NPD).Nos.5189 to 5192 of 2011 and
M.P.Nos.1,1,1,1 of 2011

Glenrock Estates (P) Limited.,
Rep by its Director,
G.Chandrasekar,
S/o.Late.T.N.K.Govindaraju Chettiar,
48, Anna Salai,
Chennai 600 002.

...Petitioner in all petitions /
Plaintiff in all Petitions
Vs

1. Ibrahim,
S/o.Mohaideen,
Edavanna,
Mallappuram District,
Kerala State.

2. Gowrishankar,
S/o.K.Rajagopal Chettiar,
3D, Heritage Apartment,
No.2, 4th Cross Street,
Ormes Road, Kilpauk,
Chennai 600 010.

...Respondents in C.R.P.No.5189
of 2011/Defendants 1 and 2

1. A.V.Bhaskaran,
S/o.K.P.Krishna Menon,
Pandalur, Gudalur Taluk,
Nilgiris District.

2. A.M.Abdul Bari,
S/o.M.M.P.Abdul Majeed,
Pandalur, Gudalur Taluk,
Nilgiris District.

3. R.Gowrishankar,
S/o.K.Rajagopal Chettiar,
3D, Heritage Apartment,
No.2, 4th Cross Street,

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Ormes Road,
Kilpauk, Chennai.

...Respondents in C.R.P.No.5190
of 2011/Defendants 1 to 3

1. K.P.Abdul Majeed,
S/o.Aboo Backer,
Kollaparamban House,
Mambad,
Malapuram District,
Kerala State.

2. R.Gowrishankar,
S/o.K.Rajagopal Chettiar,
3D, Heritage Apartment,
No.2, 4th Cross Street,
Ormes Road, Kilpauk,
Chennai 600 010.

...Respondents in C.R.P.No.5191
of 2011/Defendants 1 & 2

1. P.P.Yacob,
Father's name not known,
Ayyankolli Village,
Munnad Post,
Pincode - 643 239,
Pandalur Taluk,
The Nilgiris District.

2. R.Gowrishankar,
S/o.K.Rajagopal Chettiar,
3D, Heritage Apartment,
No.2, 4th Cross Street,
Ormes Road, Kilpauk,
Chennai - 600 010.

...Respondents in C.R.P.No.5192
of 2011/Defendants 1 & 2

Prayer in all petitions: Civil Revision Petition filed under
Section 115 of Civil Procedure Code, against the Fair order and
decreetal order dated 29.11.2010, made in I.A.Nos.240, 241, 242
and 243 of 2010 in O.S.Nos.29, 30, 31 and 32 of 2006, passed by
the District Judge of Niligirs at Udhagamandalam.

For Petitioner in all C.R.Ps
For Respondents
in C.R.P.No.5189 of 2011

: Mr.R.Anand Kumar
: Mr.A.Saravanan for R1
Mr.B.Ravi for R2

For respondents in
C.R.P.No.5190 of 2011

:No appearance for R1 & R2
Mr.B.Ravi for R3

For respondents in
C.R.P.No.5191 of 2011

:Ms.R.Swarnalatha for R1
Mr.B.Ravi for R2

For respondents in
C.R.P.No.5192 of 2011

:Mr.B.Rama Moorthy for R1
Mr.B.Ravi for R2

COMMON ORDER

These civil revision petitions are filed against the Fair order and decreetal order dated 29.11.2010, made in I.A.Nos.240, 241, 242 and 243 of 2010 in O.S.Nos.29, 30, 31 and 32 of 2006, passed by the learned District Judge of Nilgiris at Udhagamandalam.

2. Since the dispute raised in all these civil revision petitions are same, they are taken up together for disposal.

3. The case of the prosecution is that the petitioner filed suits against the respondents in O.S.Nos.29, 30, 31 and 32 of 2006, on the file of the learned District Judge of Nilgiris at Udhagamandalam, for delivery of possession and permanent injunction and for mean profits and past mean profits with interest. In the said suits, the defendants filed the written statement and during the pendency of the suits, the defendants filed applications in I.A.Nos.240, 241, 242 and 243 of 2010, under Section 151 of C.P.C., praying to stop all further proceedings and dismiss the suits with cost. After filing counter and after completing the enquiry, the learned District Judge of Nilgiris at Udhagamandalam, allowed the applications and dismissed the suits. Challenging the same, the plaintiff in the suits and the respondent in the applications viz., the petitioner herein is before this Court by way of these revision petitions.

4. The learned counsel appearing for the petitioner company would submit that the respondents filed similar application for rejection of plaint on various grounds and the same was dismissed and therefore, the applications for dismissal of the suits, are not maintainable. The petitioner company has got right to get patta for the suit, inspite of the property is vested with the Government of Tamil Nadu as per Section 3 of the Tamil Nadu Gudalur Janmam Estates (Abolition and Conversion into Ryotwari) Act, 1969.

5. The learned counsel appearing for the petitioner would also submit that the petitioner company is in possession of the

suit property till date and therefore, they have got cause of action to recover the possession from the trespassers, even the property is vested with the Government. Even though the title of the suit property is vested with the Government, the petitioner company has not lost its cause of action to initiate proceedings against the trespassers as per Section 55 of the said Act. The possessory title of the petitioner is protected under Section 55 of the said Act. The petitioner company also filed an application for issuance of ryotwari patta and the same is under consideration by the settlement officer. Only after the completion of the settlement proceedings, the petitioner company will be obliged to surrender the possession of the area of which ryotwari patta is not granted. Therefore, till such time, the possessory title of the petitioner company remains unaltered and the applications filed by the respondents/defendants are not maintainable. Therefore, the revision petitions have to be allowed and the order passed by the learned District Judge, is liable to be set aside.

6. The learned counsel appearing for the respondents would submit that as per Section 3 of the above said Act, the property is vested with the Government. The petitioner company has no right and interest over the property and they are not in possession of the property. The petitioner filed a writ petition in W.P.No.242 of 1988 and also civil appeals in C.A.Nos.1344 and 1345 of 1976 and the writ petition was dismissed and the interim order granted in C.A.Nos.1344 and 1345 of 1976, stood vacated. Therefore, the petitioner has lost its right for title and interest over the suit property and hence, the petitioner has no right to maintain the suits, since the Tamil Nadu Government has become the absolute owner of the suit property and the suits have become infructuous by the subsequent proceedings and therefore, in the interest of the justice, the suits filed by the petitioner are liable to be dismissed.

7. The learned counsel appearing for the respondents would also submit that the learned District Judge has rightly gone in detail about the pleadings and various provisions of the said Act and found that since the petitioner has no title over the property and the title is vested with the Government, the suits filed by the petitioner have become infructuous. Hence, there is no merit in the revision petitions and therefore, the revision petitions are liable to be dismissed.

8. Heard both sides and perused the records. Admittedly, the petitioner herein filed four suits against the respondents for delivery of possession, injunction and for mean profits and past mean profits with interest. The first and second defendants filed a written statement stating that an extent of 250 acres of the land was assigned to the first and second defendants by the

petitioner company represented by their Chairman Mr.Rajagopala Chettiar, as per memo of agreement dated 06.02.1992. The lands were under developed and were sold for consideration of Rs.28,75,000/-. The first and second defendants paid Rs.8,75,000/- along with the agreement and the remaining amount was paid to the third defendant as per the receipt issued by the third defendant. The defendants 1 and 2 who came to the possession of 250 acres in O.S.No.30 of 2006, the possession of the said property is respectively mentioned in the written statement. Likewise, respectively in other suits also only the extent of the properties are varies. They spent lakhs of rupees to develop the portions of the said property. The possession of the defendants 1 and 2 of the suit property was known to the Chairman as well as President and the Director. Therefore, that cannot be now disputed by the petitioner company. The said Chairman told the defendants that the sale deed would be executed after the disposal of the case before the Hon'ble Supreme Court of India.

9. A careful reading of the written statement filed by the respondents herein in O.S.No.30 of 2006, wherein they said to have entered into an agreement on 06.02.1992 and they were in possession of the property based on the agreement and subsequently, they have developed and they agreed to get executed the sale deed and waiting for the decision of the Hon'ble Supreme Court of India. Now, they are trying to say that they did not have any right in the property and only the Government alone is vested with property and got right over the property. Though the Act came into force in the year 1969, they said to have entered into the agreement in the year 1992. Therefore, after passing of the Act, they said to have entered into the agreement. Therefore, now they cannot dispute the right of the petitioner and they are estopped from raising plea against their own pleadings. However, there is no doubt that as per Section 3 of the Act, all the properties vested with the Government, but according to the petitioner, they are entitled to get ryotwari patta and they are entitled to possessory title as per Section 55 of the said Act.

10. This Court finds that without impleading the Government as a party, the petitioner and the respondents are trying to grab the property of the Government. Therefore, the order passed by the learned District Judge is not correct. Further, even assuming that the they are not collusive, earlier, they filed a petition for rejection of plaint and the same was dismissed. The respondents have not filed any revision against the said order. On the very same set of facts, the issue decided by the Hon'ble Supreme Court, by judgment dated 09.09.2010. Even after the act came into force, the respondents accepted the title of the petitioner and entered into the agreement. Now, they cannot

turned and to say that as per Section 3 of the Act, the title is vested with the Government and they have estopped from raising the plea. However, as to whether the petitioner is entitled for ryotwari patta or the respondents are entitled to the possession as an agreement holders or trespasser and whether they are liable to be evicted or not, all have to be decided only in the suits and not in these revisions.

11. Though the learned counsel appearing for the respondents would submit that since the suits were dismissed, the petitioner should have filed an appeal against the dismissal of the suits, the revisions are not maintainable. Now, the suits are dismissed only on the basis of the order passed in I.As. (clubbed applications) under Section 151 of C.P.C. In such view of the matter, the revision is maintainable. Therefore, this Court, in the interest of justice, is inclined to allow the Civil Revision Petitions.

12. In view of the foregoing discussions, the Civil Revision Petitions are allowed and the order passed by the learned District Judge in I.A.Nos.240, 241, 242 and 243 of 2010, dated 29.11.2010, on the file of the learned District Judge, Nilgiris, are set aside and the learned District Judge is directed to restore the suits.

13. Since the respondents have raised a plea as per the Act that the property is vested with the Government and the petitioner also admitted that as per Section 3 of the Act, the property is vested with the Government, still they are entitled to get ryotwari patta under Section 8 of the Act and protect their possession under Section 55 of the Act. Under the said circumstances, the Government is a necessary party in the suits, the learned District Judge is directed to implead the Government as one of the defendants in the suits and dispose of the suits in accordance with law.

14. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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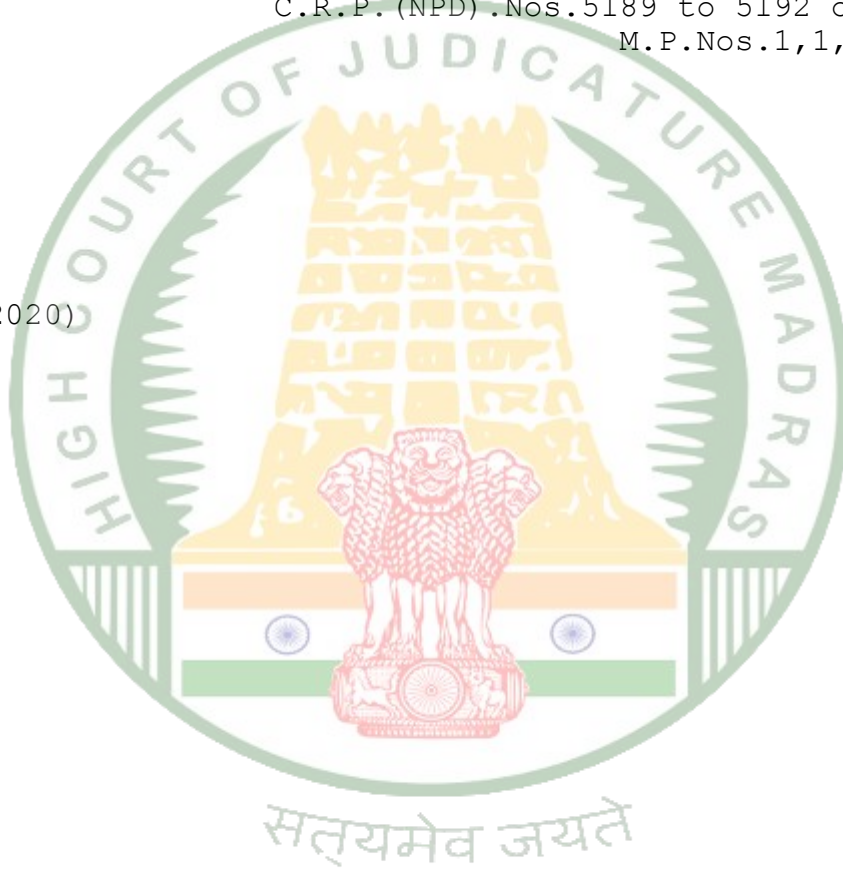
To

- 1.The District Judge of Nilgiris, Udhagamandalam.
- 2.The Section Officer, V.R. Section, High Court, Madras

+4cc to Mr.R.Subramanian, Advocate, Sr.No.25830 to 25833/2020
+4cc to Mr.R.Anand Kumar, Advocate, Sr.No.25787 to 25790/2020

C.R.P. (NPD) .Nos.5189 to 5192 of 2011 and
M.P.Nos.1,1,1,1 of 2011

AK (CO)
GS(18/08/2020)



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