

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:09.09.2020

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.11024 of 2017

&

W.M.P.No.11980 of 2017

1. Munilakshmiammal
W/o.Late.Munisamy

2. M.Krishna
S/o.Late.Munisamy

... Petitioners

vs

1. The District Collector,
Krishnagiri District.

2. The Sub Collector,
Hosur, Krishnagiri.

3. The Tahsildar,
Hosur Taluk,
Krishnagiri District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order dated 13.11.2015 made in Pa.Mu.1857/2014/C2 on the file of 3rd respondent and to quash the same and directing the respondents to issue assignment of land to the petitioners in respect of the land measuring an extent of 1.54.0 Hecter comprised in survey No.758 and 759 Onnalvadi village, Hosur Taluk Krishnagiri District.

For Petitioners : Mr.M.Muthappan

For Respondents : Mr.R.S.Selvam
Government Advocate

ORDER

This writ petition is heard through Video-Conferencing, on account of the COVID-19 pandemic situation.

2. The writ petition is filed challenging the order passed by the Tahsildar, Hosur in Pa.Mu.1857/2014/C2 dated 13.11.2015. The petitioners are wife and son respectively of one late Munusamy. They have been in possession of an extent of 1.54.0 hectares in Mornapalli Village in Survey Nos.570 & 568. While so, for the development of SIPCOT in Hosur Town, the Government of Tamilnadu had acquired the said land. At the time of acquisition, it is admitted that the said Munusamy was paid compensation for the land that was taken away from him. Thereafter, the petitioners have moved to Onnalvadi Village and occupied Survey Nos.758 & 759 and they have been in possession of the same by paying necessary kist, etc.

3. Admittedly, the petitioners have only occupied the land without any assignment. When the petitioners have applied for issuance of patta, the same was not considered. Hence, the petitioners have filed W.P.No.33218 of 2012 for a direction to the respondents to issue patta to them. While disposing of the writ petition on 12.08.2015, the petitioners were directed to make a representation to the Tahsildar with regard to the reliefs prayed for, namely, issuance of patta and on such representation being made, the Tahsildar was directed to pass appropriate orders. The impugned order is the outcome of the above said proceedings.

4. The impugned order is passed based on the enquiry report of the Village Administrative Officer, Onnalvadi. The said V.A.O. has specifically stated that, as per the revenue records, the survey Nos.758 & 759 are classified as 'Podukal', which means, first cultivation in waste land. The said lands do not have a well and they have been now cultivated by the petitioners. It was further stated that patta cannot be issued for the above classified Podukal Poramboke lands. Further, it is stated that the value of the lands in Hosur taluk are high and it may be utilised by the Government in future. The Government also had specifically banned any mortgage, lease or assignment of the lands in the said village. Hence, the request of the petitioners for issuance of the patta was rejected.

5. The learned counsel appearing for the petitioners produced documents to substantiate their possession. Petitioners have also relied on the letter issued by the District Collector, Krishnagiri District in D.O. Roc. No.H2/21732/2006 dated 04.09.2006, which relates to assignment of lands to landless labourers in Krishnagiri District in particular, Hosur and Denkanikottai Taluk. In the said letter, it is stated that, there is a Government Order in G.O.Ms.No.49 Housing and Urban Development (UD2.2) Department, dated 24.03.2003, which has listed hill villages and had ordered that

all the development in these areas must be done only after the clearance from Hill Areas Conservation Authority. It is pointed out by the learned counsel for the petitioner that in the above G.O., 98 numbers of villages of Denkanikottai Taluk were included in the list and that no village in Hosur Taluk finds a place as a hill village. Therefore, he submitted that the above said ban is not applicable to Onnalvadi village. As the petitioners are landless poor, they should have been issued assignment patta.

6. The learned Government Advocate, who had filed the counter affidavit of the third respondent-Tahsildar, Hosur, has vehemently contested that the Hosur Taluk is an industrial town, close to the city of Bangalore and that the value of the lands in the said Taluk are very high. It is also mentioned that the Hosur Municipality is likely to be upgraded as Corporation, which is under the active consideration of the Government. Secondly, it was pointed out that the second petitioner, namely M.Krishna, is working as a Field Assistant in the office of the Special Tahsildar (Survey and Settlement), Hosur. He being a Government servant, as per the Government Servants' Conduct Rules, he is not eligible for any free assignment of Government lands. Even, the first petitioner is said to have cows and was earning a substantial sum every month. The said aspect of employment of the second petitioner is denied by the learned counsel for the petitioners and stated that his employment is only temporary and he is not the permanent employee of the Government.

7. In the above factual background, whether the petitioners are entitled for a patta, is to be examined.

8. Heard the learned counsel appearing for the petitioner and the learned Government Advocate, appearing for the respondents and perused the materials available on record.

9. It is admitted that those lands, which were occupied by the petitioners earlier, were dispossessed for the purpose of SIPCOT and the petitioners were given compensation. Therefore, the lands now being occupied by the petitioners, whether can be given as an assignment to the petitioners, has to be decided in the light of the Government orders that are passed considering any ban on the same including the qualification of the petitioners to receive such patta.

10. As the impugned order only states that the land has been classified as 'Podukal' and that there is a ban for any mortgage, lease or assignment, the claim of the petitioners is rejected. Therefore, this Court feels that the order of the Tahsildar may be set aside and remanded back to the Tahsildar,

Hosur Taluk for fresh consideration of the petitioners' claim based on their representation dated 25.08.2015. The third respondent-Tahsildar may give an opportunity of personal hearing once again to the petitioners and it is open to the petitioners to submit any additional documents to substantiate their claim and if the petitioners are found to be eligible for issuance of patta, they may be considered.

11. Accordingly, the writ petition is allowed. The impugned order is set aside and the matter is remitted back to the third respondent, namely Tahsildar, Hosur Taluk, Krishnagiri District, to consider the claim of the petitioners, based on the representation dated 25.08.2015, uninfluenced by any of the findings of this Court in this order and pass fresh orders within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Asr/rsi

To

1. The District Collector,
Krishnagiri District.
2. The Sub Collector,
Hosur, Krishnagiri.
3. The Tahsildar,
Hosur Taluk,
Krishnagiri District.

+1 cc to M/s.V.R.Anna Gandhi, Advocate Sr.No. 29669
+1 cc to The Government Pleader, Sr.No. 29618

W.P.No.11024 of 2017
&
W.M.P.No.11980 of 2017

PVS (CO)
RMP (29/10/2020)