

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 27.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.Nos.14247 & 14248 of 2017
&
WMP.Nos.15449 to 15454 of 2017

Sonnamma

.. Petitioner in W.P.No.14247 of 2017

N.Mani

.. Petitioner in W.P.No.14248 of 2017

vs.

1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Revenue Department,
Fort St. George,
Chennai - 600 009.

2.The District Collector,
Krishnagiri,
Krishnagiri District.

3.The Sub-Collector,
Hosur,
Krishnagiri District.

4.The Tahsildar,
Hosur, Krishnagiri District.

5.The Village Administrative Officer,
Moranapalli,
Hosur Taluk,
Krishnagiri District

..Respondents in both W.Ps.

Common Prayer: Writ petition filed under Article 226 of the Constitution of India for writ of certiorarified mandamus calling for the records of the third respondent relating to Na.Ka.3803/2008(B-3) dated 24.10.2008 and Pa.Mu.No.665/2016/(A2) dated 20.02.2017 quash the same and consequently direct respondents 2 to 5 herein demarcate the land and fix the boundaries to the allotted site vide assignment order dated 03.10.1996 within the time to be stipulated by this Court.

For Petitioner

:Mr.R.Bharath Kumar

For Respondents

:Mr.A.Kumar,
Additional Advocate General
Assisted by Mr.R.S.Selvam,
Government Advocate

COMMON ORDER

These writ petitions have been filed challenging the common orders dated 24.10.2008 and 20.02.2017 passed by the third respondent cancelling the patta issued in favour of the respective petitioners on account of violation of the terms and conditions stipulated under the respective pattas.

2. It is the case of the respondents that the respective petitioners have not put up construction within six months to one year period which is one of the condition stipulated in the respective pattas.

3. It is the case of the petitioners that the lands were not levelled, not measured, stones not placed to mark the boundaries and only for the said reason, they were not in a position to put up construction within a period of six months to one year. The said contention is however disputed by the respondents. Aggrieved by the cancellation of pattas by order dated 24.10.2008, the respective petitioners had approached this Court in W.P.Nos.5736 to 5765 of 2015 and by order dated 04.03.2015, a learned Single Judge of this Court after observing that the impugned order dated 24.10.2008 shall be treated as show cause notice, directed the respective petitioners to individually send their replies to the show cause notice along with copies of documents and the first respondent was directed to pass final orders within a period of three weeks from the date of receipt of a copy of that Order dated 04.03.2015 passed in W.P.Nos.5736 and 5765 of 2015. The learned Single Judge further directed that on receipt of the replies from the petitioners, the first respondent shall issue notice to the respective petitioners and conduct an enquiry and after affording an opportunity of personal hearing either to the petitioners individually or collectively through their representative and after considering the entire objections including the claim made by the petitioners that they have been representing for reclaiming the lands, pass orders on merits and in accordance with law within a period of three months from the date on which the personal hearing gets concluded. Pursuant to the directions of the learned Single Judge of this court by its

order dated 04.03.2015 passed in W.P.Nos.5736 to 5765 of 2015, the third respondent after hearing the respective petitioners, passed the final order dated 20.02.2017 confirming the earlier order dated 24.10.2008 cancelling the pattas issued in favour of the respective petitioners. Aggrieved by the same, these writ petitions have been filed.

4. Heard Mr.R.Bharathkumar, learned counsel for the respective petitioners and Mr.A.Kumar, learned Additional Advocate General assisted by Mr.R.S.Selvam, learned Government Advocate for the respondents.

5. The only contention of the respective petitioners in these writ petitions is that principles of natural justice have been violated by the third respondent and the third respondent has also not adhered to the directions given on 04.03.2015 by the learned Single Judge of this Court in W.P.Nos. 5736 to 5765 of 2015 in letter and spirit. According to them, a specific direction was given to the third respondent under the order dated 04.03.2015 passed in W.P.Nos.5736 to 5765 of 2015 that the representations made by the respective petitioners with regard to the non reclaiming of the lands by the respondents was not considered by the third respondent in the impugned order. It is their specific case that unless and until reclamation of lands is done and boundaries stones are placed to mark the respective boundaries, the respective petitioners will not be in a position to put up the construction within the stipulated period between six months to one year as per the respective pattas. When a categorical stand has been taken by the petitioners that only due to the aforementioned reason, construction could not be commenced, it is the bounden duty of the respondents to consider the representations made by the respective petitioners in the impugned order. The third respondent ought to have given reasons in the impugned order dated 20.02.2017 as to why the representations of the respective petitioners to reclaim the lands could not be considered.

6. The learned Single Judge of this Court by its order dated 04.03.2015 in W.P.Nos.5736 to 5765 of 2015 had passed the following order:

"6. In the light of the above, instead of setting aside the impugned proceedings, the petitioners in these writ petitions are directed to treat the impugned proceedings as show-cause notice and they are directed to submit their individual

replies to the show-cause notices enclosing the copies of documents in support of their claim and such replies shall be submitted to the first respondent within a period of three weeks from the date of receipt of a copy of this order.

7. On receipt of such replies, the first respondent shall issue notice to the petitioners, conduct an enquiry and after affording an opportunity of personal hearing either to the petitioners individually or collectively through their representative and after considering the entire objections including the claim made by the petitioners that they have been representing for reclaiming the lands, pass orders on merits and in accordance with law within a period of three months from the date on which the personal hearing is concluded."

7. As seen from the aforesaid order, the third respondent shall pass final orders only after giving sufficient opportunity to the respective petitioners and after considering the entire objections including the claim of the respective petitioners that they have been representing reclamation of the lands. Eventhough the third respondent has granted personal hearing to the respective petitioners, he has not considered the representations made by the respective petitioners for reclaiming the lands which is one of the directions issued by the learned Single Judge of this court.

8. Learned counsel for the petitioners has also produced the various representations sent by the respective petitioners seeking for reclaiming of the lands and also the payments made by them for the said purpose. Despite the same and despite a specific direction having been issued by a learned Single Judge of this Court, the third respondent has not considered the representations for reclaiming of the lands by the respective petitioners in the impugned order. When it is the specific case of all the petitioners that only due to non-reclaiming of the lands, they have not put up construction within the stipulated period between six months to one year, the third respondent ought to have considered the said representations in the impugned order. But as seen from the impugned order, there is no discussion with regard to the same. Therefore, the order dated 04.03.2015 passed in W.P.Nos. 5736 to 5765 of 2015 has not been complied with in entirety.

9. The respective petitioners all come from lower strata of society and they are daily wage earners. This being the case, the respondents being an instrumentality of State ought to have

considered all the grievances of the respective petitioners including the grievances that the lands have not been reclaimed in the impugned order dated 20.02.2017.

10. For the foregoing reasons, the impugned orders dated 24.10.2008 and 20.02.2017 passed by the third respondent are hereby quashed and the matters are remanded back to the third respondent for fresh consideration and the third respondent shall pass final orders after affording sufficient opportunity to the petitioners and after complying with the directions issued by the learned Single Judge of this Court dated 04.03.2015 in W.P.Nos.5736 to 5765 of 2015 within a period of eight weeks from the date of receipt of a copy of this Order. Till final orders are passed, the third respondent is directed not to put any third party in possession of the respective properties. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government,
Revenue Department,
Fort St. George,
Chennai - 600 009.
 - 2.The District Collector,
Krishnagiri,
Krishnagiri District.
 - 3.The Sub-Collector,
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 - 4.The Tahsildar,
Hosur, Krishnagiri District.
 - 5.The Village Administrative Officer,
Moranapalli,
Hosur Taluk,
Krishnagiri District.
- +1cc to the Government Pleader, S.R.No.17770

W.P.Nos.14247 & 14248 of 2017

sv(co)
smn(28/05/2020)