



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.01.2020

CORAM

THE HONOURABLE **MR. JUSTICE S.S.SUNDAR**

W.P.(MD) No.12858 of 2011

and

M.P.(MD) Nos.2 & 3 of 2011

- 1.Maru Kiruthal Mary
- 2.Daisy
- 3.Santhanam
- 4.Nesam
- 5.Arokiamary
- 6.Susila Mary
- 7.Baby Priscilla
- 8.Kulandai Theresa
- 9.Samathanam
- 10.Arokiamary
- 11.Jesintha
- 12.Jayarani
- 13.Loordu Mary
- 14.Jayamary
- 15.Motchamary
- 16.Alis Mary
- 17.Natchatram
- 18.Vency

... Petitioners

Vs.

- 1.The Commissioner of Land Reforms,
Chepauk, Chennai-600 005.
- 2.The Joint Commissioner of Land Reforms,
Mayiladuthurai.
- 3.The District Collector,
Thanjavur District,
Thanjavur.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of the first respondent passed in Rc.No.D1/7248/2011 (L.Ref.) dated 29.09.2011 and the impugned order of the second respondent passed in M.R.No.4/78/58/61.Thanjai/45, dated 26.05.2011 and quash the same and consequently direct the respondents to assign the lands in Survey No.45/15 and 45/16 in Pallayapatti South Village, Thanjavur District instead of assigning the lands in Survey No.45/14.

For Petitioners

: Mr.C.Jeganathan,
for M/S.Ajmal Associates

For Respondents

: Mr.A.Muthukaruppan,
Additional Government Pleader.

**ORDER**

This Writ Petition has been filed for quashing the order of the first respondent dated 29.09.2011 and the order of the second respondent dated 26.05.2011 and for directing the respondents to assign the lands in Survey No.45/15 and 45/16 in Pallayapatti South Village, Thanjavur District instead of assigning the lands in Survey No.45/14.

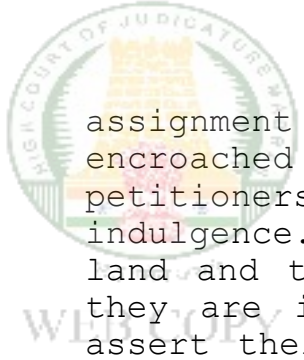
2.This writ petition has been filed by 18 persons, who are residing in Pallayapatti South Village, Thanjavur District. The lands in Survey Nos.45/15 and 45/16 and few other survey numbers were originally belonged to one K.R.Swaminatha Merkandar. It is not in dispute that the lands were declared as surplus under the provisions of Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961. After the lands were declared as surplus, the respondents initiated proceedings to assign the lands under the Tamil Nadu Land Reforms (Disposal of Surplus Lands) Rules, 1965.

3.Stating that the petitioners herein are residing in lands in Survey Nos.45/15 and 45/16 and that they have put up small constructions for their residence, the petitioners approached this Court earlier, for a Mandamus to direct the respondents to assign lands, which are in the occupation of them in Survey Nos.45/15 and 45/16.

4.It is admitted that the said writ petition was dismissed. However, liberty was given to the petitioners to submit a representation. The Division Bench of this Court, while dismissing the said writ petition by an order dated 29.07.2009, observed that the dismissal of the writ petition will not preclude the petitioners from making a representation to the respondents and that the respondents may consider the same, in accordance with law.

5.It appears that the representation of the petitioners was rejected by the second respondent by a proceedings, dated 26.05.2011 on the ground that the lands in which the petitioners claim right and seek assignment, had already been assigned to others under the provisions of Tamil Nadu Land Reforms (Disposal of Surplus Lands) Rules, 1965. The order of the second respondent was taken on appeal by the petitioners before the first respondent and the order of the second respondent was confirmed by the first respondent vide proceedings, dated 29.09.2011. In the orders passed by the first and second respondents the scope of proceedings initiated under the Tamil Nadu Land Reforms (Disposal of Surplus Lands) Rules, 1965 was considered and the petitioners' representation was rejected for valid reasons.

6.Admittedly, the petitioners are only strangers, who have no right in the land acquired from the original landlord, which was later declared as surplus. The petitioners admitted that they were assigned lands in different survey numbers. Even before the



assignment of land, it is stated that the petitioners have encroached small portions of the lands and claimed right. The petitioners on account of their conduct, cannot be shown any indulgence. The petitioners have no right to occupy any portion of land and then to claim assignment of a portion of land, in which they are in occupation. The encroachers cannot be permitted to assert their right, because an act of encroachment is illegal and such persons cannot be permitted to take advantage of their mischief.

7. Having regard to the admitted position that the petitioners request had been rejected in the earlier writ petition, the petitioners cannot pursue by taking advantage of the observation made by this Court to approach the respondents. There is no irregularity or illegality in the orders passed by the first and second respondents and no valid ground is made out by the petitioners in this writ petition. As a result, this Court find no merits in this writ petition and the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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/ /2020

Sub Assistant Registrar(CS)

gns

To

1. The Commissioner of Land Reforms,
Chepauk, Chennai-600 005.

2. The Joint Commissioner of Land Reforms,
Mayiladuthurai.

3. The District Collector,
Thanjavur District,
Thanjavur.

4. The Special Government Pleader,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s. VEERA ASSOCIATES, Advocate (SR-78[F] dated
03/01/2020)

W.P. (MD) No. 12858 of 2011
02.01.2020

VB(28.02.2020) 3P 6C