



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Friday, the Sixteenth day of October Two Thousand and Twenty

PRESENT

The Hon'ble Mr.Justice N.KIRUBAKARAN
and
The Hon'ble Mr.Justice B.PUGALENDHI

C.M.P. (MD) Nos.4885 to 4891 of 2020
in
W.A. (MD) SR Nos.33888 to 33894 of 2020

1 THE DISTRICT COLLECTOR,
TIRUCHIRAPPALLI.

2 THE REVENUE DIVISIONAL OFFICER,
TIRUCHIRAPPALLI DISTRICT.

3 THE TAHSILDHAR,
TIRUVERAMBUR TALUK,
TIRUCHIRAPPALLI DISTRICT.

...PETITIONERS/RESPONDENTS IN ALL THE PETITIONS

-VS-

1 K.RANJITHAM
2 K.SUNDARASAMY
3 K.THIYAGARAJAN
4 K.SOUNDARRAJAN
5 R.TAMILSELVI

...RESPONDENTS/RESPONDENTS in CMP(MD) No.4885 of 2020

1 C.VEERA KUMAR
2 C.RAJKUMAR
3 C.AGORA DEVI
4 C.THARMA DEVI

...RESPONDENTS/RESPONDENTS in CMP(MD) No.4886 of 2020

1 C.PRAVEEN KUMAR
2 P.SHARMILA
3 S.NITHYA

...RESPONDENTS/RESPONDENTS in CMP(MD) No.4887 of 2020

A.SELVARAJ ...RESPONDENTS/RESPONDENTS in CMP(MD) No.4888 of 2020

M.NATARAJAN ...RESPONDENTS/RESPONDENTS in CMP(MD) No.4889 of 2020

S.SELVAM ...RESPONDENTS/RESPONDENTS in CMP(MD) No.4890 of 2020

A.PAPPATHI ...RESPONDENTS/RESPONDENTS in CMP(MD) No.4891 of 2020



Common Prayer in CMP(MD) Nos.4885 to 4891 of 2020:

Civil Miscellaneous Petitions are filed under section 5 of Limitation of Act, praying this Hon'ble Court to condone the delay of 2074 days in filing the above Writ Appeal as against order dated 15-12-2014 made in W.P(MD).Nos.5443 to 5449 of 2012 respectively and pending disposal of the above Writ Appeal.

Common Prayer in WA(MD) SR.Nos.33888 to 33894 of 2020:

Writ Appeal is filed under section 15 of Letter Patent Act, praying this hon'ble Court to set aside the order dated 15.12.2014 made in WP(MD) Nos.5443 to 5449 of 2012 respectively.

Common Prayer in WP(MD) Nos. 5443 to 5445 of 2012 :

Writ Petitions filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF MANDAMUS, directing the third Respondent to issue Patta in the joint names of the petitioners for the land measuring 5 acres in Survey Number 310/1, Navalpattu Village, Thiruverumbur Taluk, Tiruchirappalli District assigned to the deceased Karuppiyah, Chelliah, Veerachamy respectively.

Common Prayer in WP(MD) Nos. 5446 to 5449 of 2012 :

Writ Petitions filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF MANDAMUS, directing the third Respondent to issue Patta in the name of the petitioner for the land measuring 5 acres in Survey Number 310/1, Navalpattu Village, Thiruverumbur Taluk, Tiruchirappalli District assigned to the Petitioner respectively.

ORDER : These petitions coming on for orders upon perusing the petitions and the affidavits filed in support thereof and upon hearing the arguments of MR.K.CHELLAPANDIAN, Additional Advocate General Assisted by MR.M.MUTHUGEETHAIYAN, Special Government Pleader for the petitioners in all the petitions and of MR.A.HAJA MOHIDEEN, Advocate on behalf of the Respondents in all the petitions, the court made the following order:-

COMMON ORDER

[Order of the Court was made by **B.PUGALENDHI, J**]

These Civil Miscellaneous Petitions have been filed for condoning the delay of 2074 days in filing the writ appeals, as against the common order of this Court passed in W.P(MD)Nos.5443 to 5449 of 2012 dated 15.12.2014 respectively.

2.Opposing these applications, the respondents/writ petitioners filed a common counter affidavit on 12.10.2020 that this inordinate delay of 2074 days has not been properly explained and contempt



of the orders passed in the writ petitions and the third petitioner/Tahsildar, Tiruverumbur Taluk, as appeared in those contempt petitions on 14.08.2019 and 27.08.2019 and therefore, now, the respondents filed these writ appeals, only in order to avoid the contempt and therefore, the petitions are liable to be dismissed.

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3.Heard Mr.K.Chellapandian, learned Additional Advocate General, assisted by Mr.M.Muthu Geethaiyan, learned Special Government Pleader appearing for the petitioners/appellants and Mr.A.Haja Mohideen, learned Counsel for the respondents/respondents.

4.Mr.K.Chellapandian, learned Additional Advocate General in support of these petitions submitted that the writ petitioners with connivance of certain officers in the Department have obtained an order of allotment to an extent of 5 Acres and those lands in Survey No.310/1 of Navalpattu Village, Tiruverumbur Taluk, Tiruchirappalli District is classified in the revenue records as un-assessed Punjai Tharaisu to an extent of 54.67 Acres and the said land was allotted to ELCOT for formation of Information Technology Park, vide G.O.Ms.No.15 dated 09.01.2007 and it is also recorded in the prohibitory order book. But suppressing the same, the respondent/writ petitioners have approached this Court for issuance of a writ of mandamus, directing the Tahsildar, Tiruverumbur to issue a patta in the name of the petitioners for the lands in the said Survey No.310/1.

5.The learned Additional Advocate General further submitted that the said said Survey No.310/1 has been subdivided further and has been utilised for public purposes like construction of Combined Transportation Department Campus. While so, the present Tahsildar, Tiruverumbur Taluk, who joined, on 30.09.2019 has taken steps to prefer these writ appeals and moreover, the District Collector has also initiated disciplinary proceedings as against the officials, who all are responsible for not taking steps for filing writ appeals.

6.Mr.Hajamohideen, learned Counsel for the respondents / writ petitioners submitted that the writ petitioners have already been allotted 5 Acres of land in Survey No.310/1, by the Tahsildar, Tiruverumbur vide Dis.Namuna Dated 21.02.1977 and these writ petitions have been filed in the year 2012 and the appellants are also party to the proceedings. In spite of the orders dated 05.12.2014, they have neither obeyed the orders of this Court nor filed any appeal before this Court and therefore, the writ petitioners have also filed contempt petitions before this Court.

7.The learned Counsel further submitted that the respondents / writ petitioners were in possession of the property from the year 1977 and their enjoyment was also confirmed by the Tahsildar in his certificate dated 10.01.1987 and the possession are also recorded in



Dharkas Register and Adangal from the year 1971 onwards.

8.Mr.Haja Mohideen, learned Counsel for the respondent has also relied upon the following orders of the Hon'ble Supreme Court :

1.Post Master General and Others Vs. Living Media India Limited and another, (2012) 3 SCC 563, and

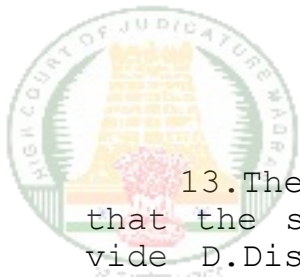
2.Basawaraj and others Vs. The Special Land Acquisition Officer, reported in (2013) 14 SCC 81.

9.He further submitted that out of 7 assignees, 5 belong to Scheduled Caste community and 2 belong to Nayakkar community. They were all landless poor and they have raised Punja crops and Karuveta Trees in the said land. They are in possession and enjoyment of the land for a long time and when the officials have attempted to dispossess them, they have also filed a suit for permanent injunction in O.S.No.1484 of 2011 and obtained an order of decree as against the officials and even now it holds good. Immediately, the Government also preferred an appeal as against the judgment and decree passed by the Civil Court and by suppressing all these materials, the present petitions are filed, which are liable to be rejected.

10.This Court paid its anxious consideration to the rival submissions and also perused the available records.

11.The respondents/writ petitioners claiming to be assignees of the year 1977, filed a suit in O.S.No.1484 of 2011 before the Principal District Munsif, Tiruchirappalli and obtained a decree for permanent injunction as against the officials/ petitioners. They have also filed the present writ petitions in the year 2012 for issuance of patta in the name of assignees. This Court by order dated 15.12.2014 allowed the writ petitions directing the Tahsildar, Tiruverumbur Taluk, to issue patta in the name of the petitioners.

12.According to the learned Additional Advocate General, originally the lands are comprised in composite Survey No.310/1 of Navalpattu Village, which is classified as un-assessed Punjai Tharisu to an extent of 54.67.5 Ars. But the Revenue Department issued an order allotting the land to ELCOT for formation of Information Technology Park and the said land is also entered in the Prohibitory Order Book, by the District Collector, Tiruchirappalli, vide his proceedings No. Pa.Mu.Na.130979 of 1975, dated 31.10.1975. The Government vide G.O.Ms.No.15, requested the District Collector, Tiruchirappalli to relax the prohibitory order, since the lands are required for Government purposes. Accordingly, Survey No.310/1 was subdivided and allotted to ELCOT. Vide G.O.Ms.No.389, dated 27.12.2011, a portion of the land to an extent of 20.23.5 Ars comprised in Survey No.310 of 2019 was allotted for Police Training School. A portion of the land was also allotted to the Transport Department for construction of combined Transport Department campus.



13.The learned Additional Advocate General has also submitted that the said land has been entered in the Prohibitory Order Book vide D.Dis No.130979/1975, dated 31.10.1975, the averment of the respondents / writ petitioners that they got the land as assignees in the year 1977, cannot be true and some of the officials have also facilitated the writ petitioners, against whom, the District Collector has also initiated disciplinary proceedings.

14.In Post master General's case cited supra, the Hon'ble Supreme Court has held that each and every day of delay's has to be accounted for. In this case though there is a huge delay, considering the issue involved and already there is a prohibitory order recorded in the year 1975, the subsequent records created, as if, the lands were assigned to the writ petitioners, this Court deems it fit to condone the delay.

15.Accordingly, the petitions are allowed. The Registry is directed to number the writ appeals, if they are otherwise in order and list the matter in its usual course.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

+1 CC to Mr.A.HAJA MOHIDEEN, Advocate SR.No. 6550

ORDER DATED : 16/10/2020

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ORDER

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C.M.P.(MD) Nos.4885 to 4891 of 2020
in
W.A.(MD) SR Nos.33888 to 33894 of 2020

Giving direction and etc.
as stated within.

TR(23.02.2021) 5P 2C