

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2021

CORAM :

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

W.P.No.3296 of 2021
and
W.M.P.No.3747 of 2021

1.C.Saravanan

2.C.Selvakumar Petitioners

Vs.

1.The Government of Tamil Nadu,
Represented by its Secretary to the Government,
Revenue Department,
Fort St. George, Chennai - 600 005.

2.The District Collector,
Udhagamandalam,
Nilgiris.

3.The Tahsildar,
Udhagamandalam,
Nilgiris. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus forbearing the respondents, their men, servants, agents or any one claiming under them from in any manner evicting the petitioners from the lands measuring an extent of 1.75 acres in Old S. No. 243 / 19, 243 / 4 and 243 / 11 corresponding to New Survey Nos.523 / 6 and 522/2 bearing Patta No. 78 in Udhagai Rural village, Nilgiris, other than by way of due process of law.

For Petitioner : Mrs.AL.Ganthimathi
For Respondents : Mr.R.Vijayakumar
Additional Government Pleader

O R D E R

(Order of the Court was made by M. SATHYANARAYANAN, J.)
(Through Video Conferencing)

The petitioners are the sons of Late Chinnamuthu, and according to them, the then British Government had allotted the land admeasuring 1.75 Acres in Old Survey No.243/19, 243/4 and

243/11 at Kovilmedu, Adasholai, Udthagamandalam Taluk, Nilgiris District, to their father under the scheme of "Grow More Food". The petitioners, on the demise of their father, succeeded to his estate and continued to cultivate the land.

2.Learned counsel appearing for the petitioners would submit that the petitioners have also been continuously issued with B-Memo in the name of their demised father, however, to the shock and surprise of the petitioners, the 3rd respondent had pasted a notice stating among other things that the land in question belongs to the Revenue Department, and if anybody trespasses into the same, stringent action would be taken against them. It is the submission of the learned counsel appearing for the petitioner that, in the light of the fact that the father of the petitioners was allotted the said land for cultivation purposes and that B-Memo has also been continuously issued, it is not open to the 3rd respondent to take possession of the said land without recourse to due process of law and prays for appropriate orders.

3.Per contra, Mr.R.Vijayakumar, learned Additional Government Pleader, who accepts notice on behalf of the respondents, would submit that, though it is the claim of the petitioners that the land has been allotted in favour of the father of the petitioners, the fact remains that, as per the admitted case of the petitioners, B-Memo has been issued in the name of the Late father of the petitioners, and therefore, it reveals that the father of the petitioners was an encroacher, and since the petitioners came to be in possession, they are also deemed to be encroachers and in the absence of any authenticated document as to the allotment for the said purpose, it is open to the respondents to take action by recourse to due process of law, and prays for dismissal of this writ petition.

4.This Court has considered the rival submissions and perused the materials placed before it.

5.Though the petitioners pray for a larger relief, this Court, in the light of the above facts and circumstances, without going into the merits of the claim projected by the petitioners in this writ petition, permits the petitioners to submit a detailed representation by enclosing relevant and authenticated documents to the 3rd respondent, within a period of three weeks from the date of receipt of a copy of this order/uploading of this order in the website, and upon receipt of the same, the 3rd respondent shall consider the joint representation on merits and in accordance with law and pass appropriate orders within a further period of six weeks thereafter, and communicate the decision taken to the petitioners, and till such time, shall defer further decision in terms of the notice affixed by him. It is made clear that the petitioners, till the disposal of their joint

representation by the 3rd respondent, shall not create any third party rights in respect of the land in question.

This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary to Government,
Government of Tamil Nadu,
Revenue Department,
Fort St. George, Chennai - 600 005.

2.The District Collector,
Udhagamandalam,
Nilgiris.

3.The Tahsildar,
Udhagamandalam,
Nilgiris.

+1cc to Mrs.AL.Ganthimathi , Advocate SR.No. 9726

W.P.No.3296 of 2021

sr II
A.SK(19.03.2021)

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