

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 07.01.2021
CORAM

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P. Nos. 18712 to 18714 of 2017

B.Bakthavatchalam .. Petitioner in W.P. No.18712 of 2017
B.Velayudham .. Petitioner in W.P. No.18713 of 2017
B.Kathirvel .. Petitioner in W.P. No.18714 of 2017

Vs.

- 1.The Inspector General of Registration,
Santhome High Road,
Chennai - 600 028.
 - 2.The District Registrar, (Administration),
Registrar Office,
Chengalpattu.
 - 3.The Sub-Registrar,
Cheyyur,
Madurantagam Taluk.
 - 4.The Special Tahsildar,
Adi Dravidar Welfare,
Madurantakam.
- .. Respondents in all W.Ps.

Writ Petitions filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents 1 to 3 herein to consider the petitioners representation dated 12.03.2017 and to take necessary steps to remove and cancel the entry in the Register of the Sub Registrar Cheyyur in respect of the petitioners land in Survey No.292/2A measuring 1.02 acres in 105, Kadulur Village, Cheyyur Taluk, Kancheepuram District as having transferred in the name of the First Respondent and restore the same in the name of the Petitioner by fixing a time limit.

For Petitioners : Mr. M.S.Subramanian
(in all W.P's.)

For Respondents : Mr. B.Kannan
(in all W.P's.) Government Advocate

C O M M O N O R D E R

These Writ Petitions have been filed by three different individuals for the issuance of the Writ of Mandamus directing the respondents one to three to consider the petitioner's representation dated 12.03.2017 and to take necessary steps to remove and cancel the entry in the Sub-Registrar, Cheyyur in

respect of the respective petitioners land in Survey No.292/2A measuring 1.02 acres in 105, Kadulur Village, Cheyyur Taluk, Kancheepuram District as having transferred in the name of the First Respondent and restore the same in the name of the Petitioner.

2. Brief facts that the necessary for the disposal of these Writ Petitions are as follows.

The petitioner's lands were sought to be acquired for Harijan Welfare Scheme for providing house sites to Adi Dravidars by issuing notification under Section 4(1) of the Land Acquisition Act (Central) vide proceeding in G.O. Ms. No.3-D/409, Adi Dravidar Welfare Department, dated 23.06.1992. It is the case of the petitioners that the acquisition proceeding was challenged by the petitioners in three Writ Petitions namely W.P. Nos.1287, 1288 & 1290 of 1993 and this court by common order dated 29.07.1997, quashed the acquisition proceeding. Though it is stated in the order that the Government of Tamil Nadu was given liberty to proceed with the acquisition afresh under the provisions of Tamil Nadu Acquisition of land for Harijan Welfare Scheme Act, 1978, further proceedings under the State Act was not commenced. It appears that the fourth respondent, when the acquisition proceeding was pending, made a request to the Sub-Registrar namely the third respondent herein to make an entry in the records so that the transfer of interest in respect of the properties under the acquisition will not be accepted for registration.

3. The case of the petitioners is that though the acquisition proceeding was quashed by order dated 29.07.1997, the encumbrance certificate issued to the petitioners reveals that the property had been entered in the name of "Madurantakam, Special Tahsildar Adi Dravidar Department". It is also stated that the column specifying the date of execution and registration of document is filled by referring to the date of award that was passed by the Land Acquisition Officer. The award passed by the Land Acquisition Officer was registered in the books of register, under Volume No.828 in page No. 283 and registered as document No.2 of 95 and 3 of 95 by the third respondent.

4. Upon seeing the entry in the register of third respondent indicating that the property vest with the Land Acquisition Officer pursuant to the Acquisition proceedings, the petitioner approached the third respondent seeking removal and cancellation of entry in the register of the third respondent in respect of the petitioner's land. However, the third respondent, despite informed about the fact that the acquisition proceeding was quashed at the instance of the respective petitioners, refused to remove and cancel the entries in the register. The

petitioners are therefore, constrained to file the present Writ Petitions for the relief as prayed for in these Writ Petitions.

5. Learned counsel for the petitioners relied upon the orders dated 29.07.1997, passed in a batch of Writ Petitions filed by the petitioners and others by which the Writ Petitions were allowed and the acquisition proceeding under Section 4(1) of the Land Acquisition Act (Central) vide proceeding in G.O. Ms. No.3-D/409, Adi Dravidar Welfare Department, dated 23.06.1992 was quashed. It is admitted before this Court that as against the order of this Court dated 29.07.1997, no further appeal or review is preferred by the Land Acquisition Officer. It is also admitted that fresh proceedings under the State Act was never initiated pursuant to the order of this Court. Learned counsel appearing for the petitioner further submitted that the amount as per the award was never disbursed and possession was not taken pursuant to the acquisition.

6. Since the property can never be treated as vested with Government in terms of Section 16 of the Land Acquisition Act (Central), learned counsel for the petitioner is right in his contentions. When the acquisition proceeding was challenged before this Court and there is nothing to indicate that the land vest with the Government before the Writ Petitions were disposed of, the land can never be treated as a land vest with the Government in terms of the provisions of the Land Acquisition Act. Consequently, the registering authority cannot treat the land as the land vest with the Government or as a land which belong to the Government. It is not known on what basis the entries in register were modified by entering the acquisition proceeding and by recording the award passed in the acquisition proceedings. It appears that the fourth respondent has requested the third respondent to make entries relating to acquisition. Such request of the fourth respondent may be in public interest if the acquisition proceeding went further and completed. In the present case, the acquisition proceeding initiated by issuance of notification under Section 4(1) of the Land Acquisition Act dated 23.06.1992, was challenged in the Writ Petitions filed by the petitioners in the year 1993 and the Writ Petitions were allowed by quashing the notification on 29.07.1997. Therefore, this Court is yet to understand as to how the acquisition which was the subject matter of the Writ Petitions could be registered in the year 1995 by the third respondent.

7. Learned counsel appearing for the third respondent has no explanation on what basis such entries were made by the third respondent in the registers without hearing the land owners. Learned counsel appearing for the third respondent submitted before this Court that the third respondent made certain entries on the basis of representations and particulars furnished by the

fourth respondent and that the third respondent can delete those entries only if there is a Court order. This Court is unable to accept the explanation offered by the learned counsel for the third respondent. The corrections or entries made by the third respondent in the register is not contemplated under the provisions of Registration Act. It is not the case of the third respondent that such entries are made pursuant to any Court order. Though the third respondent is expected to protect the interest of the properties of State and pass an order refusing to register certain documents which are in relation to the properties belonging to State Government or local authorities, such entries made in the present case cannot be justified as the acquisition proceeding itself was not complete at the time when the entries were made.

8. It is to be noted that the acquisition proceedings was quashed by order of the Court in the batch of Writ Petitions filed by the petitioners. When this Court has quashed the notification by order dated 29.07.1997, the third respondent ought to have cancelled or deleted the entry and such an act is required and expected from a Public Officer who had done may be in public interest. Despite the order of Court in the Writ Petitions produced before the third respondent, the third respondent has failed to delete the entry. Since the correction or entry is made at the instance of fourth respondent, the learned counsel for the respondents submitted that the entries cannot be corrected without the prior consent or information from the fourth respondent. This attitude of third and fourth respondent has to be condemned. It is now the habit of every officer like the third respondent to show an indifferent attitude whenever genuine representations are made. By virtue of the orders passed by this Court, the third respondent should understand that the entries made in the registers cannot continue as the acquisition proceeding was quashed. Even before acquisition was complete, entries were made wrongly. Even though an opportunity was there for the third respondent to correct his mistake which was probably at the instance of the fourth respondent, the third respondent failed to correct the mistakes for the reasons best known to him. The conduct of third respondent is contumacious.

9. No counter affidavit has been filed by any of the respondents including the fourth respondent. The indifferent attitude of the third and the fourth respondents shakes the conscience of Court and this Court realise the fate of poor litigants and common public in the hands of public servants who are expected to serve the public which includes the protection of rights and privileges of every individual. Learned counsel appearing for the third respondent came with an excuse that the recent communication addressed to the fourth respondent in

December 2020 was not responded by the fourth respondent and that the third respondent cannot be blamed. This Court cannot accept this kind of explanation which only shows the unbecoming conduct and attitude of the third respondent. Just before the hearing of this matter by this Court, it appeared that the third respondent has addressed the fourth respondent seeking some clarification. This clarification letter is not for getting some clarification from the fourth respondent but to represent before the Court as an excuse for his inaction.

10. This Court, having regard to the conduct of third and fourth respondent, is inclined to allow these Writ Petitions with an exemplary cost since the petitioners were made to suffer. Despite the land acquisition proceeding was quashed by this Court in the year 1997, a cloud was created over the title of the petitioner's land by wrong and erroneous entry made by the third respondent. As a result the petitioner is unable to deal with the property. Hence, the petitioners are entitled to the relief prayed for.

With the above directions, these Writ Petitions are allowed. The third respondent is directed to remove the entries wrongly made pursuant to acquisition within a period of two weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(CS.VI)

/True Copy/

Sub Assistant Registrar

To

1.The Inspector General of Registration,
Santhome High Road, Chennai - 600 028.

2.The District Registrar, (Administration),
Registrar Office, Chengalpattu.

3.The Sub-Registrar,
Cheyyur, Madurantagam Taluk.

4.The Special Tahsildar,
Adi Dravidar Welfare, Madurantakam.

+3cc to M/s.M.S.Subramanian, Advocate SR.Nos.1728 to 1730

+1cc to The Government Pleader SR.NO..1472

AKM/10.03.21/ 5P- 9C/

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