

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2021

CORAM

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P. Nos. 18715 of 2017

- 1.Chinnaponnu
- 2.B.Bakthavatchalam
- 3.B.Velayudham
- 4.B.Karthirvel
- 5.Chandra
- 6.Nirmala
- 7.Gangadevi
- 8.Dhanakodi

...Petitioners

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

Writ Petition 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' lands in Survey Nos.293/1B, 293/2 and 293/3A measuring in all 1.23 acres in 105, Kadulur Village, Cheyyur Taluk, Kancheepuram District, as having transferred in the name of the petitioners by fixing a time limit.

For Petitioners : Mr. M.S.Subramanian

For Respondents : Mr. B.Kannan
Government Advocate

O R D E R

This Writ Petition has been for the issuance of the 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' lands in Survey Nos.293/1B, 293/2 and 293/3A measuring an extent of 1.23 acres in 105, Kadulur Village, Cheyyur Taluk, Kancheepuram District, as having transferred in the name of the petitioners.

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

The petitioners are the legal heirs of one Balaraman who became the owner of property measuring 1.23 Acres in Kadulur Village by virtue of sale deed obtained by him on 23.03.1992. It is admitted that the properties purchased by the said Balaraman namely an extent of about 1.23 acres comprised in Survey Nos.293/1B, 293/2 and 293/3A situated at 105, Kadulur Village, Cheyyur Taluk, Kancheepuram District, was sought to be acquired by the Government for the purpose of 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, in the year 1992. It is the case of the petitioners that the acquisition proceeding was challenged by Thiru. Balaraman in W.P. No.1289 of 1993 and this court, by 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 his land. However, the third respondent, despite informed about the fact that the acquisition proceeding was quashed at the instance of Sri. K.Balaraman did not 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 order dated 29.07.1997, in a Writ Petition filed by the said Balaraman 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 one 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 on 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 several Writ Petitions filed by the said Balaraman in the year 1993 and the Writ Petition was 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 are 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 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 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 the fourth respondent has to be condemned. It is now the attitude of a few officers like the third respondent to be indifferent 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 the 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 realises the fate of poor litigants and common public in the hands of public servants who are expected to serve the public which includes the preservation 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 correcting 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. 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. The petitioners are entitled to the relief as prayed for.

Accordingly, the Writ Petition is allowed. The third respondent is directed to remove the entries wrongly made pursuant to acquisition within two weeks from the date of receipt of a copy of this order. No cost.

Sd/-

Assistant Registrar (CS VII)

//True copy//

Sub Assistant Registrar

bkn

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.

+1cc to M/s.M.S.Subramanian, Advocate SR.No.1731
+1cc to Government Pleader SR.No.1473

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GMI (CO)
KKV/04/03/2021



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