



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.12.2021

CORAM

WEB COPY

**THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN**

W.P(MD).No.23235 of 2021  
and  
W.M.P(MD).No.19657 of 2021

A.Dhanendran

... Petitioner

Vs

1. The District Collector,  
Pudukkottai District,  
Pudukkottai.
2. The Revenue Divisional Officer,  
Eluppur,  
Pudukkottai District.
3. The Tahsildhar,  
Ponnamaravathi Taluk,  
Ponnamaravathi,  
Pudukkottai District.
4. The Deputy Director for Agriculture,  
Agricultural Marketing and Agri Business,  
Pudukkottai,  
Pudukkottai District.

... Respondents

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order passed by the first respondent in his proceedings in Na.Ka.No.E4/25938/2021 dated 15.12.2021 and quash the same.

For Petitioner : Mr.B.Pragalad Ravi  
For Mr.S.Alagumani  
For Respondents : Mr.M.Sarangan  
Additional Government Pleader

**ORDER**

Heard Mr.B.Pragalad Ravi, learned Counsel on behalf of the petitioner and Mr.Sarangan, learned Additional Government Pleader appearing for the respondents.



2. The writ petition has been filed in the nature of Writ of Certiorari, questioning the order passed by the first respondent in proceedings No. Na.Ka.No.E4/25938/2021, dated 15.12.2021 and to interfere with it.

3. The petitioner claims that he is a resident of the property in S.No.701/3 measuring about 0.22.0 ares, which is approximately 54 cents situated at Ponnamaravathi West Village, Ponnamaravathi Taluk, Pudukkottai District. The property originally belonged to one Palaniyaye, wife of Periyaiya Thevar. It is agricultural Punja land. It was assigned to her by the Tahsildar of Thirumayam Taluk in the year 1969 by his proceedings, dated 01.04.1969. Thereafter, she alienated the land in favour of the mother of the petitioner for valid consideration on 28.04.1972 by a registered sale deed in Document No.812 of 1972.

4. Such an alienation is invalid. The assignee can convey the property only after a period of ten years from the date of assignment. In this particular case, the assignee has alienated the said land within a period of three years. Questioning that particular fact, the assignment itself had been interfered with by the respondents. That order travelled up to the Commissioner of Land Administration and I am informed by the learned Counsel for the petitioner that the matter had been remanded back for further consideration.

5. It is now stated that the impugned order has been passed on 15.12.2021 stating that the said land is required for putting up 'Uzhavar Santhai' by the fourth respondent herein. It is commonly known that putting up a land for 'Uzhavar Santhai' is for public purpose. Article 300 of the Constitution has to be examined keeping in mind the larger right of the public.

6. The learned Counsel for the petitioner had drawn the attention of this Court to a Judgment of the Hon'ble Supreme Court, in Civil Appeal No.196 of 2011, **D.B.Basnett (D) Through Legal Heirs Vs. The Collector, East District, Gangtok, Sikkim**, dated 02.03.2020. The learned counsel for the petitioner drew notice to the observations of the Hon'ble Supreme Court that no person should be dispossessed except by due process of law. It had also been stated that having regard to the provisions under Article 300A, the State can exercise its power of eminent domain and interfere with the right of property of a person by acquiring the same, but the same must be for public purpose and reasonable compensation must be paid. This was the position as held in **Hindustan Petroleum Corporation Limited V. Darius Shapur Chennai (2005) 7 SCC 627**.

7. The position of law is very clear. The State can therefore, interfere with the right of property of any individual and acquire



the private property, then necessary compensation should be given.

8.The cloud of the petitioner's possession and title will have to be removed and it is now pending before the concerned authority. The assignment in favour of the vendor of the mother of the petitioner had been questioned and it is under challenge by the respondents. The petitioner, therefore cannot claim to be in possession with lawful right. Here the right is subject to the decision to be taken by the concerned authorities. In this case, the respondents seek to put the land for public purpose, namely, putting up a 'Uzhavar Santhai'. The impugned order, dated 15.12.2021 has been passed by the District Collector, Pudukkottai. After examining the entire aspects, it had been stated that the land is acquired for putting up 'Uzhavar Santhai'.

9.The learned Counsel for the petitioner has questioned the said order stating that since the issue of assignment is still pending before the concerned authorities, 'Uzhavar Santhai' cannot be put up. I am not able to accept that particular line of argument. The land is not classified in the revenue records in the individual name of the petitioner. It is classified as 'Punjai Tharisu'. Once that is the classification of the land, as stated by the Hon'ble Supreme Court in the judgment referred by the learned Counsel for the petitioner itself, the Government is the eminent domain with respect to the lands coming under its control and can interfere with the right to that property of a person.

10. Here the right of the petitioner itself is under cloud. Mere execution of sale deed in favour of the mother of the petitioner will not grant any specific right over the land, which has classified as 'Arasu Punja Tharisu'. Dealing with such land is only at risk of both the vendor and purchaser. The petitioner's mother having purchased such land will necessarily has to face the necessary consequences. The Government by exercising its power of eminent domain, seek to take back the land.

11.In view of these reasons, I am not prepared to interfere with the order impugned in this writ petition. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

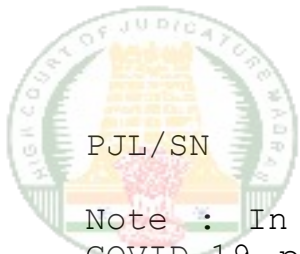
Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



PJL/SN

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The District Collector,  
Pudukkottai District,  
Pudukkottai.
- 2.The Revenue Divisional Officer,  
Eluppur,  
Pudukkottai District.
- 3.The Thasildar,  
Ponnamarvathi Taluk,  
Ponnamarvathi,  
Pudukkottai District.
- 4.The Deputy Director for Agriculture,  
Agricultural Marketing and Agri Business,  
Pudukkottai,  
Pudukkottai District.

+1 CC to M/s.SPL GP ( SR-40549[F] dated 31/12/2021 )

+1 CC to M/s.S.ALAGUSUNDAR, Advocate ( SR-40525[F] dated 29/12/2021 )

W.P (MD) .No.23235 of 2021  
29.12.2021

KS (CO)  
KB(06.01.2022) 4P 7C