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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2022

CORAM :

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

Writ Petition No.12687 of 2012

1. Nariyancadu Varadarajapuram Adi Dravidar Kudieruppour  
Nala Sangam (Reg. No.88/11)  
Rep by its President Mr.Kalaimani  
No. 74, Longs Garden Street,  
Varadarajapuram  
Pudupet, Chennai-600 002 ...Petitioner

-Vs-

1. The Chief Secretary,  
Secretariat, Fort St. George,  
Chennai-600 009  
(R1 deleted from the array  
of parties vide order dated  
08/04/2022 made in Wp 12687/2012)
2. The Member Secretary,  
C.M.D.A., Thalamuthu Natarajar Maligai,  
No.1, Gandhi Irvin Salai ,  
Egmore,  
Chennai-8.
3. The Commissioner,  
Chennai Corporation,  
Ribbon Building,  
Chennai-600 003
4. The Commissioner,  
Land Survey and Land Records Department,  
Chepauk,  
Chennai.
5. The Inspector General of Registration,  
Mylapore,  
Chennai-600 028
6. The Sub-Registrar,  
Periyamedu,  
Chennai.



7. The District Collector,  
Singaravelar Maligai,  
Chennai.

8. The Additional Personal Assistant (Land) To The Collector/  
The Revenue Divisional Officer,  
Chennai Region,  
Singaravelar Maligai, Chennai.

9. The Tahsildar,  
Mylapore,  
Chennai-600 028

10. The Commissioner of Police  
Egmore,  
Chennai.

11. Jamal Mohideen

12. M.Akbar Sheriff

13. A.Hameedun Nawaz Sheriff

[R11 to R13 Impleaded as per  
Order dated 08.07.14 by SVNJ  
In M.P. 1/14 in W.P. 12687/2012].

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to direct the respondents to conduct an enquiry regarding the alienations of the lands to the non- SC people and to take necessary steps for resumption of such lands in Survey No.1283, at Varadarajapuram, Egmore, Chennai in accordance with law consequently direct the respondents to consider the representation of the petitioner.

|                    |   |                                                              |
|--------------------|---|--------------------------------------------------------------|
| For Petitioner     | : | Mr. R.Subburaj                                               |
| For R1, R4 to RR10 | : | Mr. V.Arun, AAG-V<br>assisted by<br>Mr. R.P.Murugan Raja, GA |
| For R3             | : | Mr. B.Manimegalai                                            |
| For R2, R11 to R13 | : | No appearance.                                               |

#### O R D E R

The President of Nariyancadu Varadarajapuram Adi Dravidar Kudieruppur Nala Sangam has preferred the writ petition directing the respondents to conduct an enquiry regarding alienation of land to non-schedule caste people and to take necessary steps for resumption of the lands in Survey No. 1283,



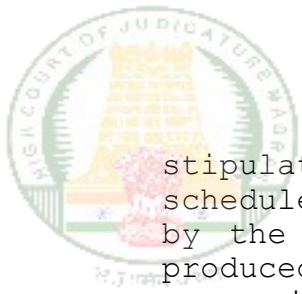
at Varadarajpuram, Egmore, Chennai.

2. The learned counsel for the petitioner would vehemently contend that the land was acquired for the purpose of providing house sites to the schedule caste living there considering their poverty and penurious circumstances, the society has sold the lands with a condition that it should be sold only to the schedule caste people who are members of the society.

3. Revenue Standing Order 15 deals with grant of land for occupation subject to payment clearly lays down that the entries alienating the said lands other than the schedule caste. When such condition is imposed, it is contended by the learned counsel for the petitioner that Article 46 of the Constitution of India will come into play. It is the duty of the Government to take special care of the educational and economic interest of the people of the weaker sections, in particular of the schedule caste and schedule tribes and shall protect them from social injustice and all forms of exploitation. Therefore, he would further contend that the land which was specifically allotted to the schedule caste with a condition that it shall be alienated only to the schedule caste people and not to the non-schedule caste people who need not be protected by the Government in this regard. Whereas, it was alienated in favour of R11 to R13 who are not schedule caste people, but belong to Islam. Therefore, the petitioner seeks a direction to the respondents to secure the interest of schedule caste people and resume the land and allot it to the poor people who belong to schedule caste community.

4. The learned Additional Advocate General appearing for the respondents would contend that since 1970 onwards, the practice of mentioning the community of the purchasers or seller was given up. Therefore, they were unable to identify the community of the purchaser and it is not a violation committed by the officials. As per the records of the Sub-Registrar Office, the original association was not functioning. However, the newly formed petitioner's association has not given any membership details. Since, they have not disclosed the details of the members of the petitioner association who got assigned earlier and that they are the members of the society, they are not entitled to challenge the alienation of the property to individual members. There is no cause of action and locus standi for the petitioner to maintain in the writ petition.

5. It is further contended that the respondents were not aware about the planning permission given by concerned authorities for construction of a commercial building in the area notified for residential purpose. The sale made by the corporation of Madras in favour of the society, does not



stipulate any condition that it should be alienated only to schedule caste. In the model sale deed dated 21.12.1950 produced by the respondents as well as the sale deed dated 27.11.1952 produced by the petitioner does not reveal any conditional sale or assignment by the Government in favour of the society for selling it only to schedule caste people. As per the RSO 15-41, the 7<sup>th</sup> respondent / District collector has wrongly read the original sale deed and stated that there is a condition and shall be conveyed only to the schedule caste, but there is no such condition. Therefore, the petitioner which is a newly formed association cannot claim any right or direction to the respondent to conduct an enquiry.

6. Heard the submissions.

7. The entire dispute revolves around sale deed made by the Corporation of Madras in favour of Nariyancadu Cooperative Society, Pudupet, Madras, dated 04.06.1924. The learned Additional Advocate General produced a copy of Document No.1417/1924 dated 21.08.1924. The reading of the document reveals that the land in R.S.No.1284 situated in Chindadirpet measuring 2 cawnies 5 grounds and 1897 sq.ft.was acquired by the Government of Madras under the provisions of Land Acquisition Act 1894 and awarded pursuant to the recommendation made by the Deputy collector on 18.09.1970 in favour of the society for a sum of Rs.8175.2.2. The society has paid the same following a resolution of special meeting dated 10.02.1970. As per the further recital, the Commissioner Corporation of Madras, the property was handed over to the possession of the society and the society can enjoy the same from encumbrances. In the above sale deed there is no such condition that it shall be sold only to the schedule caste people or only to the schedule caste members is mentioned. Further, there is no restraint that it shall not be conveyed to any other community. Further a reading of the model sale deeds executed by the society in favour of its members dated 21.12.1950 and 27.11.1952 makes it very clear that land was acquired by the Government through the Deputy Collector invoking provisions of Land Acquisition Act 1894 and it was sold in favour of No.1909 Nariyancadu Co-operative Society. From the share collected from the members of the society and from the loan of Rs.7,400/- acquired from the Triplicane urban cooperative society, the land was purchased for a sum of Rs. 8175-2-2 and it was enjoyed by No. 1909, Nariyancadu Corporative Society after change of name No. E/16 Varadarajapuram Corporative Society. Both the societies are in possession of the property and free from all interferences. Those societies have sold the property in favour of these members who are Adi-Dravidas residing in Varadarajapuram (Nariyancadu). A further recital was given that the members shall not alienate the property other than the Adi-Dravidas



members of the society. Apart from this, there is no reference of any restriction or assignment conditions fixed by the Government.

8. RSO 15-41, confers powers in the Revenue Division Offices to set apart the land and reserve it for assignment of schedule castes. The Revenue Divisional officer, if he thinks it is necessary in the interest of schedule caste, set apart a specific area for assignment for cultivation for the schedule caste and no other person belonging to other caste can interfere with the possession of the schedule caste. Clause 4(i) of RSO 15-41, lays down the restrictions to be imposed on alienation. As per which the land shall not be alienated to any person (whether that person is the member of the scheduled caste or not) in any manner before the expiry of the 10 years from the date of grant not even thereafter, except to other members of these castes. This restriction intended u/RSO 15-41 on alienation is not a part of the original sale deed made in favour of the cooperative society. Further it is not the land which was specifically reserved for assignment to scheduled caste. It is a land acquired by the Government by invoking the provisions of Land Acquisition Act 1894 and sold in favour of the society for the benefit of its members. Therefore, there is no assignment of a reserved land which was set apart for the usage of the schedule caste.

9. It is noted that the society has sold the lands to its members with a recital with a covenant that they shall not alienate the property but they should enjoy it generation to generation. Therefore, both the original sale deed made in favour of the society by the Government and the sale deed made by the society in favour of its members does not put any restriction on alienation of any reserved land in favour of other community. As long as the assignment was not made by the Government from the lands reserved for the scheduled caste, the condition of RSO 15-41 will not apply to the present case.

10. Now that it is submitted by the 7<sup>th</sup> respondent District Collector that the practice of mentioning the community name has been done away with from the year 1970. Therefore, the alienation of the properties by several persons could not be identified by the respondents. Since, the Government has not set any restriction on alienation when it sold the land in the year 1924 in favour of society for a cost of Rs.8175.2.2. It cannot be presumed by the Government that transfer is irrevocable and therefore, also the respondent have no power to revisit the sale deed.

11. Apart from the above as contended by the District Collector the members of the petitioner association are not the



members of the original cooperative society. They are not in possession of any records at to assignment of lands or membership details with them. The petitioner association is a newly formed association and who has no connection with the cooperative society which sold the lands to its members. Therefore, as contended by the District Collector the petitioner has no locus standi or any cause of action or any legal right to seek the relief as prayed for in the writ petition. If at all any of the members of the petitioner association was the original purchaser of the land from the society, at the outset, they shall be blamed for selling it to third parties or for the breach of the recitals in the sale deed made in favour of the society. The society shall take action against its own members and the respondents have no role in the same.

12. The learned counsel appearing for the petitioner rests on the benefits specified in Article 46 of the Constitution of India. It is true that as per the directive principles of State policy enshrined in Part IV of the Constitution all the economic interest of the weaker sections of the people in particular schedule caste should be protected. But in the instant case, the sale deed of the year 1924 as well as the sale deed of the year 1950 and 1952 does not confer any right on the scheduled caste or that their economic interest was violated or they were exploited on account of their caste.

13. Therefore, without any details as to when the property was sold by members of the society and as to how many hands it has changed and who exploited the poor members of the society, the petitioner association cannot come out with a claim on vague grounds. Therefore, the writ petition merits no consideration and accordingly dismissed. There shall be no order as to costs.

14. Learned counsel for the petitioner has impleaded the Chief Secretary to the Government who has no active control over the same. Therefore, as requested by the learned Additional Advocate General, the 1<sup>st</sup> respondent/Chief Secretary to Government is deleted from the array of parties.

-s/d-  
Assistant Registrar

//True Copy//

Sub-Assistant Registrar

sha/kpr



To

1. The Member Secretary,  
C.M.D.A., Thalamuthu Natarajar Maligai,  
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8. The Tahsildar,  
Mylapore, Chennai-600 028
9. The Commissioner of Police  
Egmore, Chennai.

+1cc to Mr.R.Subburaj, Advocate, S.R.No.24781

+1cc to the Government Pleader, S.R.No.24717

W.P.No.12687 of 2012

AK (CO)  
RN (23/05/2022)