



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.27927 and 26571 of 2010

1. P.Kathirvel
2. Palanichamy ... Petitioners in W.P.No.27927 of 2010
1. Nanjappa Gounder
2. K.Ethiraju
3. A.Muthuraju Konar
4. Subramanian
5. Ansar Bibi
6. Karuppa Kudumpan
7. A.Kaliappa Gounder
8. Velammal
9. Chinna Ponnusamy
10. Muthusamy Gounder
11. S.Velusamy
12. Ottimalai Gounder
13. P.Rangasamy
14. Chinnasamy @ Paramasivan
15. V.Eswaran
16. K.Sounder Raj ...Petitioners in W.P.No.26571 of 2010

Vs.

1. The District Collector,
Thiruppur District,
Thiruppur.
2. The Assistant Commissioner,
Land Reforms,
Erode.



3. The Tahsildar,
Udumalaipettai,
Thiruppur District.

... Respondents in both W.P.s

Prayer in both W.P.s: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling upon the production of the records relating to the proceedings dated 02.11.2010 made in Na.Ka.No.13688/09/A4 passed by the 3rd respondent herein and quash the same in so far as the petitioners are concerned.

For Petitioner in both W.P.s : Mr.S.Senthilnathan

For Respondents in both W.P.s : Mr.T.Cheziyan
Additional Government Pleader

C O M M O N O R D E R

Since the issue involved in the present cases are similar in nature and the impugned order is one and the same, accordingly these writ petitions are disposed of by way of a common order.

2. The case of the petitioners is that on earlier occasion, the land to the extent of 232.97 acres were declared as surplus in Kallapuram Village, Udumalaipettai Taluk, Thiruppur District. Consequently, the Assistant Commissioner of Land reforms, Erode initiated assignment proceedings and made assignment in favour of one Shanmugam and 238 persons vide proceedings dated 29.02.1996, against which, the petitioners have filed an Appeal before the Land Tribunal and the same was allowed and the order of the Commissioner in respect of Survey Nos.499, 503B, 304, 447, 497, 498, 496 and 457 was set aside by the Land Tribunal vide order dated 21.09.1999. Since, the said order was not implemented, the petitioners have filed the Writ Petition before this Court in W.P.No.18992 of 2010, in which the respondents were directed to consider the representation dated 07.10.2010 for implementing the said order, however, the 3rd respondent, without conducting any enquiry, had issued the impugned notice dated 02.11.2010. Aggrieved by the same, the petitioners have come up with these petitions seeking the relief of quashment of the same.

3. The learned counsel appearing for the petitioner submit that though the assignment was granted in favour of private persons, the same was challenged before the Land Tribunal and the Land Tribunal allowed and set aside the



assignment proceeding, however, the same was not implemented and the directions given in the writ petition were not considered properly, but the representation was disposed of without giving an opportunity of personal hearing to the petitioner. Further, the counter filed by the respondent reveals that the representation of the petitioners dated 07.10.2010 was rejected on 02.11.2010 and the said rejection order was not communicated to the petitioner. Without furnishing the impugned order to the petitioners, issuance of eviction notice is not sustainable and further the 3rd respondent is not competent to decide the issue. Hence, the said impugned notice is liable to be quashed.

4. The learned Special Government Pleader for respondents submit that the petitioners have already made request for implementing the order of the Tribunal, the same was rejected by the Assistant Commissioner vide order dated 02.11.2010 and the said order is a consequential order and the same cannot be challenged by way of a Writ Petition. Hence, filing present writ petition before this Court, seeking quashment of the said order is not sustainable. Hence, the prayer sought for in these petitions cannot be acceded to and these petitions are liable to be dismissed.

5. Heard the learned counsel on the either side and perused the materials available on record.

6. A careful perusal of the materials available on record reveals that the assignment granted in favour of the third parties was challenged before the Land Tribunal by way of a petition and the same was allowed. Due to the non-compliance of the said order a Writ Petition was filed before this Court in W.P.No.18992 of 2010, and the same was disposed of directing the respondents to consider and dispose of petitioners' representation. Pursuant to the said order, the present order / notice has been issued. It is not the case of the respondents that before passing the impugned notice, opportunity of personal hearing was granted to the petitioners. Without giving an opportunity of personal hearing to the petitioner, the impugned notice has come to be issued, which cannot be sustained.

7. However in view of the fact that notice is in consequence of the representation of the petitioners in the interest of Justice. The impugned notice is stayed for a period of eight weeks and the second respondent is directed to communicate the impugned notice dated 02.11.2010 to the petitioners, within a period of two weeks from the date of receipt of copy of this order. Further, the petitioners are granted liberty to work out their remedy before the aforesaid



competent civil forum in the manner known to law within the period.

8. Accordingly, these Writ Petitions are disposed of with the aforesaid direction. No costs.

WEB COPY

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

rap/nhs

To

1. The District Collector,
Thiruppur District,
Thiruppur.
2. The Assistant Commissioner,
Land Reforms,
Erode.
3. The Tahsildar,
Udumalaipettai,
Thiruppur District.

+1cc to the Government Pleader SR.No.9540

W.P.Nos. 27927 and 26571 of 2010

SSD(CO)
GN(16/03/2022)