



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.23416 of 2013

R.Krishnan

...Petitioner

Vs.

1.The District Collector,
Nilgiris District,
Udhagamandalam, The Nilgiris.

2.The Tahsildar,
Udhagamandalam Taluk,
The Nilgiris District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the 1st respondent dated 14.05.2013 made in Re/U2/3286/2003 quash the same and consequently direct the respondents to grant alternative land in view of the land acquired.

For Petitioner : M/S.M.Devaraj

For Respondents : Mr.M.Murali
Government Advocate

O R D E R

This Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the proceedings of the 1st respondent, dated 14.05.2013 made in Re/U2/3286/2003, quash the same and consequently direct the respondents to grant alternative lands in view of the land acquired.

2. The case of the petitioner is that the lands comprised in Survey Nos.349/2A, 408 and 433 etc, owned by his family, were acquired by the Central Government in the year 1960 for construction of Radio Astronomy Centre, school building and playground and the petitioner's lands were parted with on the understanding that the alternative lands would be given for



cultivation of crops. While so, the respondents had permitted the petitioner to cultivate the crops in S.No.349/2A, and the lands in the said survey No.349 with the present Survey Nos.21/1 and 21/2 in Udhagai Rural Village was used for cultivation has been cultivated by the petitioner's family from the year 1970 onwards. However, the respondents, without any reason, started to interfere with the possession of the lands, which were allotted to the petitioner. Hence, the adjacent land owners have filed a Civil Suit in O.S.No.455 of 1980 before the Sub Court, Udhagamandalam, praying not to interfere with the possession and the same has been decreed on 25.11.1982. Pursuant to that order, the respondents had not interfered with the possession of the petitioner's lands. Subsequently, on the instigation of the politically influential persons, the respondents had again attempted to dispossess the petitioner from the lands by initiating proceedings under the Tamil Nadu Land Encroachment Act by issuing Section 7 order without conducting any enquiry and without serving any notice under Section 6 of the said Act.

2.1. The grievance of the petitioner is that, though the petitioner has made several requests to the respondents to issue Patta, as the petitioner's cultivable lands had already been acquired, the respondents had acted arbitrarily to deprive the lands, thereby, the other persons like petitioner filed Writ Petitions in W.P.Nos.45999 and 46000 of 2002 and W.P.No.46653 of 2002, seeking direction to the respondents to grant alternative accommodation for acquired lands and consequently, forbearing from interfering with the petitioner peaceful possession. The above said Writ Petitions were disposed on 09.01.2013, directing the respondents therein to consider the claim of the petitioner for grant of Patta or any other relief as may be applicable under law. Thereafter, the 1st respondent passed the impugned order dated 14.05.2013, rejecting the petitioner's request. Challenging the same, the present Writ Petition is filed.

3. The learned counsel for the petitioner submitted that, initially the petitioner's lands were acquired by the Central Government for the purpose of construction of school building and the playground and the petitioner was permitted to cultivate 50 cents of land. Further, he submits that the petitioner has prayed for alternative land and the said request was not considered, thereby, the prayer for assignment of the land in favour of the petitioner, was rejected. Accordingly, he prays for allowing this Writ Petition.

4. The learned Government Advocate appearing for the respondents submitted that the petitioner and others have



encroached and occupied the Government land in S.No.406/1, measuring an extent of 10.70 acres in an unauthorized manner and the said land was classified as Village Grazing Ground of Udhagai Rural Village and the encroached area was brought under B.Memo in the name of the petitioner. The land has also been entered in the Prohibitory Order Book (P.O.B) in view of its registry and its purpose of utilization in future. Further, the lands in S.Nos.349/2A & 406/1, comprising a total extent of 18.19 acres, have been exclusively set apart for the purpose of grazing ground. Hence, the encroachment made by the petitioner is highly objectionable by its registry and brought under the Tamil Nadu Land Encroachment Act 1905 (in short, Act) for eviction. Accordingly, the action was initiated to evict those encroachers in S.Nos.349/2A and 406/1 as per the provisions of the Act by following due process of law. Aggrieved by the same, some of the encroachers have filed several Writ Petitions before this Court and this Court, by its order dated 17.10.2002, observed that the authorities are expected to take possession only in accordance with law and after following due procedures of law.

5. In view of the above direction, the 1st respondent/District Collector has conducted an enquiry on 10.12.2012 and the request of the petitioner was examined carefully and further, there was a ban in force on assignment of cultivable lands in respect of the Nilgiris District as per G.O.Ms.No.1168, Revenue Department dated 25.07.1989. In view of the same, at relevant point of time, the petitioner's claim cannot be considered. Further, the learned counsel for the 1st respondent submitted that the petitioner had not produced any documentary evidence to prove his claim, even after sufficient chances were given to him to prove his claim, and his only prayer is to issue Patta in the encroached land, which is highly objectionable, and such lands were classified for the purpose of grazing ground. Hence, he prays for dismissal of the present Writ petition.

6. Heard the learned counsel for the petitioner as well as the respondents and perused the materials available on record.

7. Facts in the present case are not in dispute. Admittedly, the petitioner is an encroacher and the disputed property which he has encroached is classified as Village Grazing Ground, which is highly objectionable as per G.O.Ms.No.1168, Revenue Department dated 25.07.1989. In view of the same, this Writ Petition is liable to be dismissed.



WEB COPY

8. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

jd/skt

To

1.The District Collector,
Nilgiris District,
Udhagamandalam, The Nilgiris.

2.The Tahsildar,
Udhagamandalam Taluk,
The Nilgiris District.

+1cc to Mr.M.Devaraj, Advocate SR.No.13981
+1cc to the Government Pleader SR.No.14593

W.P.No.23416 of 2013

GPL(CO)
GN(30/03/2022)