



W.P.No.26837 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.26837 of 2012
and M.P.Nos.1 and 2 of 2012, 1 of 2013

- 1.K.Gandeepan
- 2.V.kandasamy
- 3.R.Murugesan
- 4.V.Arumugham
- 5.C.Kuppusamy
- 6.A.Ramasamy
- 7.K.Rangasamy
- 8.Ammasai Gounder
- 9.G.Guruval
- 10.Mary Rajamani
- 11.C.Kaniammal
- 12.R.Subbammal
- 13.Nabeesha
- 14.V.Hemambujam
- 15.P.Lakhsmi
- 16.Fathima
- 17.K.Arunthavaselvi
- 18.R.Parvathi
- 19.Vedhanayaki
- 20.P.Sellathangam
- 21.V.Vesuvammal
- 22.R.Perumal
- 23.K.V.Mani
- 24.S.Ramasubramanian
- 25.A.Vasu
- 26.L.Santha
- 27.V.Madharayappan
- 28.A.Balasubramanian



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29.R.Vasanthakumari

30.N.Subramanian

31.N.Palanichami

32.Kannammal

... Petitioners

Vs.

1.The Secretary to Government,
Revenue Department,
Fort St.George, Chennai 9.

2.The Principal Secretary and
Commissioner of land Administration,
Chepauk, Chennai 5.

3.The District Collector,
Erode District.

4.The Assistant Engineer,
(PWD) Water Resources Organisation,
Camp Section, Bhavanisagar,
Sathyamangalam, Erode District.

5.N.Ponnusamy

6.N.Rajendran

7.A.Rajendran

8.K.Gopal

9.K.Tirupathi

10.S.Muthusamy

11.V.Krishnan

12.K.Subburaj

13.N.Ramalingam

14.R.Lakshmanan

15.P.Nanjan

(R5 to R15 impleaded as per order dated 07.11.2012 in MP.No.3/2012)

16.M.Suruliraj

17.P.Selvi

18.T.Maakali

19.V.Kumar

20.M.Pavithra



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21.M.Palanisamy
22.S.Saravanan
23.K.Mani
24.B.Prabhu
25.T.Bannaari
26.C.Bhuvaneshwaran
27.P.Sathish
28.M.Raghunathan

(R16 to R28 are impleaded vide order dated 14.06.2022 in WMP.No.7982/2022)

29.P.Subramaniam
30.R.Murugan
31.P.Gopal
32.P.Kumar
33.R.Velumani
34.K.Kumaresan
35.R.Duariyappan
36.A.Rosy
37.B.Sagunthala
38.R.Brahman
39.R.Vinoth kumar
40.L.Suresh
41.A.Chinnapalanisamy
42.R.Sakthivel
43.N.Poovathal
44.P.Amudha
45.P.Rathna
46.S.Aarayee

(R29 to R46 are impleaded vide order dated 14.06.2022 in WMP.No.9470/2022)

... Respondents

PRAYER: This Writ Petition filed under Section 226 of Constitution of India, pleaded to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent in RC No.F2/33684/10 dated 6.9.2012 and quash the same



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and further direct the respondents to consider the grant of house site patta in respect of the land in Survey No.141, 164, 165, 167, 168, 170, 185, 188, 191, 197 and 230 of Mudukkandurai Village, Bhavanisagar, Sathyamangalam Taluk, Erode District, in terms of the G.O.Ms.No.408, Revenue Department, dated 26.4.1996 and G.O.Ms.No.34, Revenue Department, dated 23.1.2008.

For Petitioner : Mr.S.Kamadevan

For Respondents : Ms.Akila Rajendran, Government Advocate

Order

This Writ Petition has been filed for issuance of writ of Certiorarified Mandamus to call for the records of the 2nd respondent in RC No.F2/33684/10 dated 6.9.2012 and quash the same and further direct the respondents to consider the grant of house site patta in respect of the land in Survey No.141, 164, 165, 167, 168, 170, 185, 188, 191, 197 and 230 of Mudukkandurai Village, Bhavanisagar, Sathyamangalam Taluk, Erode District, in terms of the G.O.Ms.No.408, Revenue Department, dated 26.4.1996 and G.O.Ms.No.34, Revenue Department, dated 23.1.2008.

2. The case of the petitioners is that the petitioners are all retired Government Servants and was working in various Government departments and posts. Further it is averred that the Public Works Department constructed



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Bhavanisagar Dam between the period from 1947-1955 and at the time of construction of the dam, vast extent of land was acquired and handed over to the Public Works Department by the Government and there were temporary sheds put by the Public Works Department for occupation for the officers and other staffs employed in the construction of the dam in S.F.Nos.141, 164, 165, 167, 168, 170, 185, 188, 191, 197 and 230 of Mudukkandurai Village, Bhavanisagar, Sathyamangalam Taluk, Erode District and as these sheds were lying vacant after the construction of the dam, there was a demand from the Government Servants to occupy the same and hence the PWD started to let out these sheds treating it as residential quarters to them. These petitioners after getting the allotments, spent huge amounts towards repair and renovation of these shed and are in continuous possession and enjoyment. While so, a notice dated 07.04.2010 came to be issued by the 4th respondent under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, alleging that the petitioners are encroachers of the PWD land and they should vacate and hand over possession of the land on or before 27.04.2010. Challenging the said proceedings, the petitioners had filed W.P.No.8913/2010, before this Court and this Court allowed the said writ petitioner by holding that the petitioners cannot be termed as encroachers and the notice issued under Section 7 of the Tamil Nadu land Encroachment Act, 1905 is without jurisdiction and liberty was given to the 4th



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respondent to initiate proceedings under the Tamil nadu Public Premises (Eviction of Unauthorised Occupants) Act, 1975. Thereafter, the 4th respondent initiated proceedings under the said Act and further since the 4th respondent is not the estate officer empowered to take action, the petitioners had filed W.P.No.26633/2012 and the same is pending.

3. It is alleged by the petitioners that initially the Government issued orders in G.O.Ms.No.854 dated 30.12.2006, directing the authorities to grant house site patta to those persons who were residing in the Government land for more than 10 years and based on the said orders, house site pattas were issued to some persons and subsequently vide G.O.Ms.No.34, dated 23.01.2008, the said residing period was reduced to five years and later vide G.O.Ms.No.43, it got further reduced to 3 years. Therefore, in order to consider the petitioner's claim for grant of house site patta based on the said government orders, they made individual representations dated 21.06.2010 to the respondents, however there was no reply. Hence, the petitioners filed W.P.No.21393/2010 before this Court and this Court vide order dated 21.10.2010, directed the 2nd respondent to consider the representations in accordance with G.O.Ms.No.43 and pursuant to the said direction, the 2nd respondent conducted enquiry and rejected the claim of the petitioners vide order dated 02.03.2011 and thereafter, the order of the



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2nd respondent was also challenged before this Court in W.P.No.14174 of 2011.

In the meanwhile, there was a claim for allotment from the third parties and they also filed another W.P.No.5645/2011 and both the writ petitions were heard together and direction was issued to the 2nd respondent to reconsider the issue again in the light of the Government Orders and till such time, the possession of the petitioners was protected. Pursuant to the said order, the 2nd respondent again conducted enquiry, however the matter was hurriedly heard and further the petitioners have not been served with any objection said to have been filed before the Commissioner on behalf of the Chief Engineer and ultimately, the present impugned order came to be passed. Aggrieved by the said order, the petitioners are before this Court.

4. The learned counsel appearing for the petitioner submitted that admittedly the petitioners are retired Government employees and they are receiving pension and they were permitted by the Public Works Department to occupy the said lands and thereafter, the petitioners developed the property and are in possession and enjoyment of the same of the temporary structures / sheds put up by the Public Works Department during the period 1947-55, with the hope that they would not be disturbed even after their retirement and thereby spent huge amount for the repairs and renovation of the sheds and made fit for human inhabitation. At this juncture, if they are forcibly evicted from their



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possession and enjoyment, they will be put to irreparable loss and hardship. It is

further submitted that the Government issued Government Orders recognizing to issue house site pattas to those persons who were residing in the Government land for more than 10 years and further the said period got reduced to three years vide G.O.Ms.No.43. Admittedly, the petitioners are residing in the said land for more than 10 years and hence they are entitled for house site patta as per the said Government Orders and hence the impugned order passed by the 2nd respondent is not sustainable under law and the same is contrary to the Government Order issued by the Government and prays for allowing of this petition.

5. The learned Government Advocate appearing for the official respondents submitted that the Public Works Department is the owner of all quarters in Bhavanisagar Township and the quarters were allotted to the petitioners with the condition that they have to vacate the quarters whenever the Government servant are being transferred or retired from Government service. However, the petitioners have requested to issue house patta for their quarters occupied, based on G.O.Ms.No.854 dated 30.12.2006, G.O.Ms.No.34, dated 23.01.2008 and G.O.ms.No.43, dated 29.01.2010, however the said Government orders is applicable only to the Government Poromboke and it is



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not applicable to the Government acquired lands. Further as per the revenue records, the entire housing quarters lands of the Bhavanisagar Township, is classified as 'PWD government land' only and they never reclassified the said lands as 'Revenue natham poromboke' and hence, the impugned order is perfectly valid in law and it does not require interference of this Court and prays for dismissal of this petition.

6. This Court has carefully considered the rival submissions and also perused the materials placed before it.

7. Facts in the present case is not in dispute. Admittedly, the PWD let out the sheds treating them as residential quarters to the petitioners and allowed them to possess the same. Though it is the claim of the petitioners that after getting the allotments, they spent huge amounts towards repairs and renovation of those sheds, however a perusal of the counter affidavit reveals that admittedly, the sheds which were allotted in favour of the petitioners are maintained periodically by the PWD Department. Further the issue to be considered in the present round of litigation is whether the petitioners who are the retired Government employees are entitled for house site patta as per the above said Government orders. A perusal of the Government Orders clearly



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reveals that the Government has taken policy decision to allot such lands to the landless poor. Admittedly, the petitioners are retired Government employees and they are receiving their pension and they are also above the poverty line. If the benefit of such Government Orders is extended to the persons like that of petitioners, it would cause great prejudice to the landless poor people and further the free house site patta will be granted to the 'natham lands' and unobjectionable lands' after reclassification, however the lands which were in occupation of the petitioners are classified as 'PWD government land' in the revenue records and therefore, the Public Works Department is the owner of the said lands and the Government has not power to issue free house site for the said lands to any persons. Hence, the prayer sought for by the petitioners cannot be granted and thereby, the impugned order does not warrant interference of this Court.

8. For the reasons aforesaid, this Writ Petition deserves dismissal and accordingly dismissed. No costs. Consequently connected miscellaneous petitions are closed.

14.06.2022

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WEB COPY

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Revenue Department,
Fort St.George, Chennai 9.
- 2.The Principal Secretary and
Commissioner of land Administration,
Chepauk, Chennai 5.
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M.DHANDAPANI,J.

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