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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :14.03.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No.32218 of 2012

and

W.M.P.Nos.1 and 2 of 2012

1.D.Doraiswamy
2.D.Mohan
3.D.Vijaya (deceased)
4.D.Jayaprakash
5.D.Rajendran
6.D.Srinivasan
7.G.Jayalakshmi
8.V.Amudalakshmi
(P4 to P8 are impleaded as LRs
vide order dt.01.03.2022
in WMP.20722/21 in WP.32218/12)

...Petitioners

Vs.

- 1 THE DISTRICT COLLECTOR
DISTRICT COLLECTORATE OFFICE AT KANCHEEPURAM
KANCHEEPURAM
- 2 THE TAHSILDAR
THIRUKALIKUNDRAM TALUK KANCHEEPURAM DISTRICT
- 3 THE BLOCK DEVELOPMENT OFFICER
PANCHAYAT UNION THIRUKALIKUNDRAM TALUK
KANCHEEPURAM DISTRICT
- 4 THE VILLAGE ADMINISTRATIVE
OFFICER KALPAKKAM POST THIRUKALIKUNDRAM
TALUK KANCHEEPURAM DISTRICT
- 5 THE PRESIDENT
PUDUPATTINAM VILLAGE PANCHAYAT KALPAKKAM
THIRUKALIKUNDRAM TALUK.

...Respondents



Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records from the first respondent pertaining to the petitioner's father representation letter of the year 1964 and assignment of land in proceedings in RC No.25705/ 66E dated 1.6.1966 by the then RDO for the lands to an extent of 5 acres in Survey No.179/2 at Pudupattinam Village Kancheepuram District and to quash the orders passed by the first respondent in his proceedings dated 2.9.2012 in RC No.36903/ 2010/B3 and forbearing the respondents from in any way and in any manner interfering with the peaceful possession and enjoyment of the lands in S.No.179/2 - 5 Acres Pudupattinam Village Kancheepuram District.

For Petitioners : Mr.T.V.Krishnamachari

For R1, R2 & R4 : Mr.P.Sathish

Additional Government Pleader

For R3 : M/s.R.A.S.Sethilvel

For R5 : M/s.R.Ravichandran

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 from the first respondent pertaining to the petitioner's father's representation/letter of the year 1964 and assignment of land in proceedings in RC No.25705/ 66E dated 1.6.1966 by the then RDO for the lands to an extent of 5 acres in Survey No.179/2 at Pudupattinam Village Kancheepuram District and to quash the orders passed by the first respondent in his proceedings dated 2.9.2012 in RC No.36903/ 2010/B3 and forbear the respondents from in any way and in any manner interfering with the peaceful possession and enjoyment of the lands in S.No.179/2 - 5 Acres, Pudupattinam Village Kancheepuram District.

2. The learned Additional Government Pleader takes notice for the official respondents. In view of the limited relief sought for in this petition and on the consent of the learned counsel appearing on either side, this petition is taken up for final disposal.

3. The case of the petitioners is that originally, the land in Survey No.179, which was classified as 'Kalam' was assigned to the petitioners father, by the order of Sub Collector, Chengalpattu D.Dis.11911/68 dt.16.06.1968. Subsequently, the



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said assignment order was cancelled by the District Revenue Officer, Chengalpattu District, on 29.05.1970 stating that the classification was wrongly taken as 'kalar" (Unassessed waste) by the Sub Collector, Chengalpattu, against which the petitioner filed an appeal before the Board of Revenue and Revenue Board, by its order dated 26.03.1974, confirmed the cancellation order of the District Revenue Officer. Challenging the same, petitioner went on revision to the Government and the Government in its G.O.Ms.No.1970, Revenue, dt.12.10.1977, stayed the order of Board of Revenue and remitted the case to District Revenue Officer, Chengalpattu District for fresh disposal. In the meanwhile, the petitioners filed Writ Petition in W.P.No.8770 of 1999, and this Court by order dated 01.10.2010, directed the District Collector to pass orders on the representation that was to be filed by the petitioners. Accordingly, hearing was conducted by the District Collector on 08.11.2010 and also on 31.08.2012. Thereafter, the present impugned order was passed on 02.09.2012. Aggrieved by the same, this writ petition is filed with the above said prayer.

4. The learned counsel appearing for the petitioner submitted that, though as per G.O.Ms.No.1970, Revenue, Dt.12.10.1977, Government stayed the orders of Board of Revenue and remitted the case to the District Revenue Officer, Chengalpattu District for fresh disposal, till date District Revenue Officer has not decided the case. Further, the petitioner filed a suit in O.S.No.73 of 2008, on the file of the District Munsiff Court, Thiruakkalikundram, for declaration of title and for injunction. Since, the 3rd respondent/Block Development Officer, Thirukkalikundram, did not appear for hearing before the DMC, Thiruakkalikundram, Ex-parate order dt.06.01.2009 was passed in favour of the petitioners. Accordingly, he prayed for appropriate orders.

5. The learned Counsel appearing on behalf of the 5th respondent submitted that the entire Patta land was cancelled by then District Revenue Officer, and immediately thereafter, the 1st respondent being the Government was in possession and constructed public buildings in the above said land and the petitioner is not in the possession of the above said property. Since the possession itself is a disputed question of fact, the same cannot be decided by this Court. Accordingly, he prays for dismissal of the present Writ petition.

6. The learned Additional Government Pleader appearing on behalf of respondents 1, 2 and 4 submitted that this Court may issue direction to the District Revenue Officer, Chengalpattu to implement the direction issued vide G.O.Ms.No.1970, Revenue, Dt.12.10.1977 within a reasonable time that may be fixed by this Court. He further submitted that, in the impugned order, the



respondent made it clear that the ex parte order obtained by the petitioner was reopened by the District Munsif Court, by order dated 11.09.2012 and the same is pending.

7. Heard the arguments advanced by the learned counsel on either side.

8. This Court, without going into the merits of the case, issues direction to the District Revenue Officer to implement Government Order in G.O.Ms.No.1970 Revenue dt.12.10.1977, within a period of twenty four weeks from the date of receipt of a copy of this order, after affording an opportunity of hearing to the petitioner and the aggrieved parties, if any. However, liberty is granted to the petitioner to work out the remedy in the manner known to law as against the District Revenue Officer.

9. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS)

// True Copy //

Sub Assistant Registrar

Psa

To

- 1 THE DISTRICT COLLECTOR
DISTRICT COLLECTORATE OFFICE AT KANCHEEPURAM
KANCHEEPURAM
- 2 THE TAHSILDAR
THIRUKALIKUNDRAM TALUK KANCHEEPURAM DISTRICT
- 3 THE BLOCK DEVELOPMENT OFFICER
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- 5 THE PRESIDENT
PUDUPATTINAM VILLAGE PANCHAYAT
KALPAKKAM
THIRUKALIKUNDRAM TALUK.



6 THE DISTRICT REVENUE OFFICER,
CHENGALPATTU.

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+1cc to Mr.R.Ravichandran, Advocate, Sr.No.16870

+2cc to Mr.T.V.Krishnamachari, Advocate, Sr.No.16910

+1cc to the Government Pleader, Sr.No.17805

W.P. No.32218 of 2012

RSI (CO)
RN(30/03/2022)