



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2022

CORAM

THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

W.P.Nos.6404, 6405, 25668 and 26286 of 2015
and connected miscellaneous petitions

T.K.Subramaniam ... Petitioner in W.P.Nos.6404 and
26286 of 2015

Susindhiran Palaniswamy ... Petitioner in W.P.Nos.6405 and
25668 of 2015

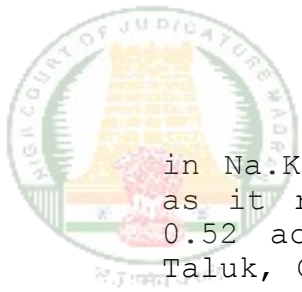
Vs.

1. The District Collector,
Coimbatore District,
Coimbatore.
2. The District Revenue Officer,
Coimbatore District,
Coimbatore.
3. The Revenue Divisional Officer,
Coimbatore.
4. The Tahsildar,
Annur Taluk, Annur.
5. The Executive Engineer,
Tamil Nadu Slum Clearance Board,
Coimbatore.

... Respondents in all W.Ps.

PRAYER IN W.P.NOS.6404 AND 6405 OF 2015: The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the order of the first respondent in Proceedings R.C.24077/2014/B4, dated 08.09.2014 and quash the same insofar as it relates to the lands of the petitioner of an extent of 0.52 acres in Survey No.473/2G2 of Keeranatham Village, Annur Taluk, Coimbatore District.

PRAYER IN W.P.NOS.26286 AND 25668 OF 2015: The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the respondents relating to the order of the third respondent



in Na.Ka.6/1996/B3, dated 10.12.2013 and quash the same insofar as it relates to the lands of the petitioner of an extent of 0.52 acre in Survey No.473/2G2 of Keeranatham Village, Annur Taluk, Coimbatore District.

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For Petitioner in all W.Ps.	:	Mr.Doraisami, Senior Counsel for M/s.Muthumani Doraisami
For Respondent Nos.1 to 4 in all W.Ps.	:	M/s.T.Venkatesh Kumar Special Government Pleader
For Respondent No.5 in all W.Ps.	:	M/s.S.Silambanan Additional Advocate General

C O M M O N O R D E R

All these Writ Petitions revolve around the resumption of land said to have been assigned under the Revenue Standing Order 21 to the Scheduled Caste/ Scheduled Tribes.

2. The petitioner purchased an extent of 1.04 acres of dry land in S.No.473/2G2 of Keeranatham Village, Coimbatore Taluk, from one Kannaiah by way of a registered Sale Deed dated 06.04.1994. The said Kannaiah purchased the said property from one Palanisamy under registered Sale Deed dated 18.04.1986. The patta was transferred in favour of Kannaiah on 27.05.1987 and thereafter, in favour of the petitioner on 06.04.1994. While so, a Board was erected by the respondents during September, 1986, claiming that the land belongs to Government. Challenging the same, the petitioner filed Writ Petitions in W.P.Nos.15861 and 16234 of 1996. By way of counter affidavit, the respondents stated that original assignment was cancelled by proceedings No.22582/95/A1, dated 19.08.1996. This Court, by its order dated 28.02.2005, had disposed of the Writ Petitions with a direction to the petitioner to prefer an appeal before the appellate authority. Immediately, the petitioner preferred an appeal and sought for production of relevant documents. Again the petitioner had approached this Court in W.P.No.5641 of 2006 for production of relevant files relating to orders of assignment. This Court directed the respondents to furnish all the materials to the petitioner and then, pass orders on the basis of the available records, by its order dated 07.12.2006. However, the original assignment or the impugned cancellation were not available in the records produced by the respondents. The second respondent, District Revenue Officer, while considering the appeal, in Proceedings Na.Ka.No.15980/95/B1, dated 17.04.2009,



has categorically found that the original files were not available and there are no records to verify the interpolation and correction made in the files and also inclusion of the petitioner's survey number into the proceedings and thereafter, by its order in proceedings Na.Ka.No.15980/95/B1, dated 17.04.2009, set aside the proceedings and remitted the matter back to the Revenue Divisional Officer, third respondent herein for a fresh enquiry and pass orders on the basis of the documents and in accordance with law. The third respondent vide proceedings Na.Ka.No.6/1996/B3, dated 10.12.2013 without perusing any original files has passed an order, which is under challenge before this Court.

3. On a perusal of the records placed before this Court, it is noticed that the respondents said to have assigned land in favour of one Pazhani Mathari. As per the contention of the petitioner, it was assigned as early as 1927. It is stated that the assignment was made in the year 1927, but, no files are available even today. In the impugned order, the third respondent has neither mentioned the date of assignment nor discussed the order of assignment and the nature of the land as to whether it was earmarked for Scheduled Caste, Scheduled Tribes, etc. Without any records, it appears that the third respondent has assumed that it is the land assigned for Scheduled Caste with conditions.

4. The learned Senior Counsel appearing for the petitioner would draw the attention of this Court to the contradictions made in the counter affidavit filed by the respondents in W.P.No.6404 of 2015 and the counter affidavit filed by the respondents in W.P.Nos.26286 and 25668 of 2015. The contradictions are tabulated as under:-

No.	Counter Affidavit in W.P.No.6404/2015 (Annexure-7)	Counter Affidavit in W.P.Nos.25668 and 26286/2015 (Annexure-8)
1.	Extent of land assigned to Palanisamy was 1.04 acres in S.F.No.473/2G2.	Extent of land assigned to Palanisamy was 1.95 acres in S.F.No.473/2G2.
2.	Assignment was as per D.R.No.14/1337.	Assignment was as per D.R.No.184/1337.
3.	The year of assignment was 1927 and 1928.	The year of assignment was 1925.
4.	The land on resumption was reclassified as "assessed waste".	The land on resumption was reclassified as "Natham".



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No.	Counter Affidavit in W.P.No.6404/2015 (Annexure-7)	Counter Affidavit in W.P.Nos.25668 and 26286/2015 (Annexure-8)
5.	After getting proposal from Tahsildar, the land was ordered enter upon permission to the TNSCB in Collector's proceedings No.24077/2014/D4 dated 08.09.2014 for construction of multi storied tenements.	As there lands were being kept as vacant and in order to avoid further encroachment and also for eventual assignment of house sites to houseless poor, Revenue Divisional Officer, Coimbatore in her proceedings Ref.No.22582/1996, dated 19.09.1996 ordered to issue pattas. In accordance with these orders, the Tahshildar, Coimbatore North, after observing usual formalities laid down in the Revenue Standing Order 15 issued house site pattas to 212 houseless poor Adi Dravida persons on 26.09.1996 and assignees have also occupied the sites allotted to them.

5. From the above contradictions, it is found that the counter affidavits appears to have been prepared on the basis of random assumption of officials with regard to date of the assignment without verification of the original records. There is no discussion of the Revenue Divisional Officer as to the availability of the original files with regard to the assignment of land and cancellation of land. Without any prima facie materials to prove that the land in dispute is assigned to Scheduled Caste, the impugned order came to be passed.

6. As per Revenue Standing Order 15 -41, the Revenue Divisional Officer has a power to set apart certain lands for the purpose of assigning it to the Schedule Caste. As per RSO - 15 (41) 4(i), restrictions can be imposed on alienation that the land shall not be alienated to any other person other than the member of Scheduled Caste in any manner before expiry of 10 years from the date of grant and not even thereafter, except to member of the same Caste.



7. Restrictions specified in RSO - 15 can be verified only from the original records of the Government. But, as found by the Revenue Divisional Officer, no original records were available with the respondents to verify the above facts. In such circumstances, cancellation of patta issued to the original assignee namely Pazhani Mathari in the year 1927 is baseless and without any legal evidence. Without ascertaining that this land was set apart for the Scheduled Caste, there cannot be any cancellation of assignment.

8. Be that as it may, insofar the resumption of land is concerned, the RSO - 15 confers power on the authorities for the resumption. As per RSO - 15 (2) (xi), the resuming authority for breach of any condition of assignment shall be the Commissioner of Land Administration/ Government for the lands assigned prior to 14.05.1973. Clause - (xi) reads as under:-

(xi) Resuming authority:- The authority competent to resume or re-enter on lands for breach of any condition of assignment shall be as follows:-

- (a) The Tahsildar, if the land is non-valuable;
- (b) The Revenue Divisional Officer if the land is valuable; and
- (c) The Commissioner of Land Administration/ Government, for the lands assigned prior to 14.05.1973.

9. In the instant case, in spite of categorical findings of the District Revenue Officer that the original files were not available and there was lot of corrections and interpolation in respect of inclusion of the survey number of the petitioner. Without any authority, the Revenue Divisional Officer has assumed that it is the land assigned to the Scheduled Caste with restrictions. In any event, the third respondent has no power to resume or re-enter of the land, which is said to have been assigned prior to 14.05.1973, but in the instant case during 1927. Therefore, the order of the third respondent is ultra vires, illegal and arbitrary. Hence, the entire proceedings stands vitiated for want of power and substantial legal evidence. Therefore, in the absence of any record to prove that the said land in dispute was set apart for Scheduled Caste and it was assigned to the member of the Scheduled Caste with restrictions, the respondents have no power to deal with the lands.

10. The learned Senior Counsel appearing for the petitioner would submit that from the date of purchase viz., 16.04.1984, the petitioners are in possession. In such circumstances, their possession cannot be interfered with without following the due process of law as contemplated under



Article 300 A of the Constitution of India.

In the result, all these Writ Petitions stand allowed and the impugned orders passed by the respondents are set aside. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Coimbatore District,
Coimbatore.
2. The District Revenue Officer,
Coimbatore District,
Coimbatore.
3. The Revenue Divisional Officer,
Coimbatore.
4. The Tahsildar,
Annur Taluk, Annur.
5. The Executive Engineer,
Tamil Nadu Slum Clearance Board,
Coimbatore.

+2ccs to Mr.R.Sivakumar, Advocate, S.R.No.26281

+4ccs to Mr.Muthumani Doraisami, Advocate, S.R.No.26397

+1cc to the Government Pleader, S.R.No.26338

W.P.Nos.6404, 6405, 25668 and 26286 of 2015
and connected miscellaneous petitions

AD(CO)
SU(12/05/2022)