



WEB COPY



W.P.No.12781 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.12781 of 2020

P.Venkatesan,
Vice President,
Lakshmipuram Kudiirupor Podhu
Nala Sangam (Reg No.129/2014)
No.112, Lakshmipuram, Aadhanoor Village,
Kancheepuram-603 202.

.. Petitioner

Vs

- 1.The Secretary,
Department of Revenue
Fort St. George, Secretariat,
Chennai-09.
- 2.The District Collector,
The office of the Collector,
Kancheepuram District,
Kancheepuram-631 501.
- 3.The Tahsildar,
(Previously Sriperumbudur Taluk)
Kancheepuram District.



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4.Ashok Leyland Employees Co-operative House
Construction Society Limited,
KP (SPL) No.70,
rep. by its President R.Jayakumar
Having office at No.2, Sasthrinagar 3rd street,
Ennore, Chennai-600 057.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus to call for the records on the file of the second respondent in proceedings of Che.Mu.Ka.3056/2014/Aa3 dated 19.03.2020 confirming the order of the third respondent passed in ROC 4049/2013/A2 dated 28.03.2018 and quash the same as illegal, incompetent and without jurisdiction and further direct the statutory respondents to grant patta to the occupants of the property.

For the Petitioner : Mr.V.Raghavachari

For the Respondents : Mr.J.Ravindran
Addl. Advocate General
assisted by
Mr.A.Selvendran
Spl. Government Pleader
for respondent Nos.1 to 3

: Ms.Vasudha Thiagarajan
for respondent No.4

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

The writ petition has been filed to challenge the order dated 19.03.2020 confirming the order of the third respondent dated



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2. Prior to filing of the present writ petition, the petitioner had preferred a writ petition, being W.P.No.12776 of 2017, to challenge the proceedings of G.O.No.990, dated 12.06.1990 in respect of land measuring 20.02 acres in Survey No.361/1B at Aathanoor Village, Sriperumbudur Taluk and the notice dated 24.04.2017 respectively and to direct the respondents therein to grant patta to the occupants of the property.

3. Challenge to the notice dated 24.04.2017 was made precisely on the ground that the members of the petitioner association were in possession of the land for decades and the assignment of the land to others has been made without considering that the members of the petitioner association are in possession of the land. The fact about the assignment of the land to others came to the notice of the petitioner association belatedly and, therefore, they had challenged G.O.No.990 dated 12.06.1990 assigning the land.



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4. A Division Bench, in the order dated 24.08.2017, did not record finding on a challenge to the Government Order dated 12.06.1990 despite an argument that the land is in the possession of the members of the petitioner association. Rather, the Division Bench issued an order treating the notice dated 24.04.2017 to remove the encroachments to be a show cause notice and gave liberty to any one of the office bearers of the petitioner's association to submit their response in the form of a detailed representation along with authenticated documents within a period of eight weeks from the date of receipt of a copy of the order. On receipt of the representation, the respondents were directed to conduct an enquiry in accordance with law and pass appropriate orders within a further period of twelve weeks and communicate the decision to the petitioner. In view of the direction aforesaid, the impugned order was passed after consideration of the representation made by the petitioner.

5. Even prior to the aforesaid litigation, two writ petitions, being W.P.Nos.26539 of 2009 and 32501 of 2015, were filed,



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wherein even the encroachers were made as parties. A common order therein was passed on 02.01.2017 to the effect that the respondents therein are under statutory obligation and mandate to follow due process of law for ordering eviction of the encroachers. Accordingly, notice dated 24.04.2017 was issued on the petitioner. In view of the above, the claim of the petitioner for their right to possess the land vis-a-vis the land assigned to others cannot be accepted and that issue is not even raised before us.

6. In view of the above, the petitioner could not show the right to occupy the land, other than stating that they are in long possession. The issue aforesaid has been dealt with by this Court in the earlier writ petition preferred by the petitioner without favourable order. However, liberty was given for submitting a representation against the eviction notice. Being encroachers on the land assigned to others, the members of the petitioner association/occupants have no right to possess the land and, accordingly, the impugned order was passed after giving a detailed reasoning to enforce the direction and eviction. It is not only on the



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facts of the case, but even in compliance of the order dated 02.01.2017 passed in W.P.Nos.26539 of 2009 and 32501 of 2015 preferred by those assigned the land seeking removal of encroachments. The direction given by this Court in the said litigation cannot be nullified when the members of the petitioner association had not preferred a review applicataion to recall the order adverse to them directing removal of encroachments.

7. In the light of the aforesaid, we find no ground to cause interference in the matter to favour the encroachers.

8. Accordingly, the writ petition fails and is dismissed. There will be no order as to costs. Consequently, W.M.P.No.15799 of 2020 is closed.

(M.N.B., CJ) (D.B.C., J.)
03.08.2022

Index : Yes/No
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