



W.P.No.40621 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

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- 1.A.Gopalakrishnan
- 2.Elumalai
- 3.K.Arumugam
- 4.Adiyammal
- 5.Mani Gounder
- 6.Arayi
- 7.Malliga
- 8.Mani
- 9.Mariappan
- 10.Raja @ Peraselli Gounder
- 11.Arjunan
- 12.Perumanathan

... Petitioners

Vs.

- 1.The Additional Secretary & Commissioner of Land Administration,
Chepauk, Chennai – 600 002.
- 2.The District Collector,
Salem District.
- 3.The District Revenue Officer,
Salem District, Salem.
- 4.The Revenue Divisional Officer,
Salem District, Salem.



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5. The Tahsildar,
Salem District, Salem.

... Respondents

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Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the following impugned orders (1) dated 05.01.2012 bearing Ref.Na.Ka.No.11523/2011/K4 on the file of the 3rd respondent and (2) dated 15.09.2016 bearing Ref.Na.Ka.No.F2/6703/2012 on the file of the 1st respondent herein and quash the same and consequently direct the respondents to assign patta as per the recommendation dated 30.06.1994, bearing Ref.Na.Ka.No.7309 of 1994 (B6) and further reminder dated 20.08.1998 bearing Ref.Na.Ka.No.1390/1997 (B6) in favour of the petitioners in respect of their respective possession and enjoyment of the land situated in S.No.3 at Nagaramalai Adivaram, Porappan Kadu, Alagapuram Village, Salem-636 016.

For Petitioner : Mr.T.Sai Krishnan

For Respondents : Mr.U.Bharanidharan
Additional Government Pleader

ORDER

The petitioners have filed this writ petition seeking issuance of Writ of Certiorarified Mandamus, calling for the records relating to the following impugned orders (1) dated 05.01.2012 bearing Ref.Na.Ka.No.11523/2011/K4 on the file of the 3rd respondent and (2) dated 2/13



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15.09.2016 bearing Ref.Na.Ka.No.F2/6703/2012 on the file of the 1st

respondent herein and quash the same and consequently direct the respondents to assign patta as per the recommendation dated 30.06.1994, bearing Ref.Na.Ka.No.7309 of 1994 (B6) and further reminder dated 20.08.1998 bearing Ref.Na.Ka.No.1390/1997 (B6) in favour of the petitioners in respect of their respective possession and enjoyment of the land situated in S.No.3 at Nagaramalai Adivaram, Porappan Kadu, Alagapuram Village, Salem-636 016.

2.The case of the petitioners is that the petitioners are resident of Alagapuram village. Their ancestors are agriculturists and poor persons having income less than 9,000/- per annum. While so, in view of the poverty the petitioners occupied various extent of land for more than 75 years in S.No.3 of Alagapuram Village. The said survey number is adjacent to a hill called “Nagaramalai” and the entire survey number is classified as “Karadi” i.e. rough terrain which is value less and unobjectionable “Poramboke” lands. In view of the long possession and enjoyment of the above said property, these petitioners gave a representation to the 3rd respondent/ District Revenue Officer for assigning the land in favour of the



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petitioners. Subsequently, the village panchayat passed a resolution in favour of the petitioners on 31.05.1994. In view of the representation given to the Tahsildar, the Tahsildar also forwarded a detailed report vide his proceedings in Na.Ka.7309/94(B6) dated 20.08.1988 recommending the assignment of land in favour of the petitioners. However, no order was passed, hence, the petitioners filed a W.P.No.34134 of 2007 before this Court and this Court vide its order dated 26.11.2008 issued direction to the petitioners to submit a detailed representation and the respondents upon receipt of the same were directed to consider and pass appropriate orders, pursuant to which the 1st respondent passed an order dated 03.06.2011 rejecting the petitioner's representation and refused to assign the land on the ground that the said land is situated within 8 kms from the District Headquarters and assignment is prohibited in terms of G.O.Ms.3166 dated 05.11.1996 and further the petitioners are not economically weaker section and not entitled for any assignment of land and also the decision taken on the report of the Tahsildar letter No.7309/94/B6, dated 30.06.1994 referred in the High Court order was not known. On the above said grounds, the District Revenue Officer/ 3rd respondent refused to assign the land in favour of the petitioners.



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3. Thereafter, the 2nd respondent conducted a detailed enquiry on appeal and received inputs from the other respondents. Unfortunately, the 2nd respondent did not consider the petitioners requests and dismissed the petitioners representations vide order made in Ref.Na.Ka.No.11523/2011/K4, dated 05.01.2012. Aggrieved over the said order, the petitioner challenged the same before the 1st respondent and the said appeal was kept in abeyance. Thereafter, the petitioners filed W.P.No.5340 of 2016 before this Court, seeking direction to the 1st respondent to consider the appeal and this Court vide its order dated 12.02.2016, directed the 1st respondent to consider the appeal and pass appropriate orders, pursuant to which the 1st respondent passed an order dated 15.09.2016 confirming the order passed by the 2nd respondent. Challenging the same, the present Writ Petition is filed.

4. Mr. T. Sai Krishnan, learned counsel appearing for the petitioners submits that admittedly the petitioners are landless poor and they were in occupation of unobjectionable land for more than 70 years, right from their forefathers. The petitioners gave a representation for assignment of the

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aforsaid land in terms of R.S.O.No.15 and the Tahsildar and the Village Panchayat recommended for assignment of land in favour of the petitioners on the ground that the said land is unobjectionable land, whereas, the said recommendations were not considered by the District Revenue Office and the appellate authority which is not a sustainable one. Referring to G.O.Ms.No.3166 dated 05.11.1996 which pertains only to house site whereas the petitioner is in possession of the agricultural site. Hence,the above said G.O. is not applicable to the case of the petitioners. Further the petitioners are landless poor and no supportive documents was adduced by the respondent to reject the petitioners representation on the ground that the petitioners does not belong to weaker section. Accordingly, he prayed for allowing the Writ Petition.

5.Per contra, the Additional Government Pleader appearing for the respondents had filed a counter affidavit. For better appreciation, the relevant paragraphs 3 and 9 of the said counter affidavit are extracted hereunder:-

“3.The Writ Petitioners stated that they have given several petitions to the respondents and Revenue Officials



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for assignment of land in S.No.3/1, Ward-D, Block-6 classified as Karadu Poramboke to an extent of 9.7750.0 Sq.Meter out of a total extent of 64.650.0 Sq.Meter located in Alagapuram Village in Salem West Taluk in Salem District. But as there was no response, they initially approached Hon'ble High Court in W.P.No.34134 of 2007 for directions to the respondents to consider their grievance.

The Hon'ble High Court in W.P.No.34134 of 2007 in M.P.No.1 of 2007 dated 26.11.2008 directed the petitioners to send a representation to 1st respondent and Commissioner of Land Administration seeking assignment of land. Accordingly, they have given petition for assignment of land on 12.02.2008 to Commissioner of Land Administration, Chennai called for a report from the District Collector, Salem.

The Collector, Salem after enquiry sent a report in ROC.57544/2007/K4 dated 11.03.2009 to Commissioner of Land Administration rejecting the petitioners' request since cultivable lands in Municipal and Belt areas should not be assigned.

The Commissioner of Land Administration has pointed out certain defects and the Collector, Salem is directed to send the reports with reference to RSO 15 & connected Government



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Order and also instructed the petitioners to approach the Collector, Salem in Commissioner of Land Administration's F2/35941/2008 on 03.06.2011.

Again the District Revenue Officer, Salem enquired the petitioners' request and perused the records and rejected their request in ROC.11523/2011/K4 dated 05.01.2012. Against the orders of District Revenue Officer, Salem, the Writ Petitioners made an appeal before Commissioner of Land Administration, Chennai on 12.03.2012. When the appeal was pending before Commissioner of Land Administration, Chennai, one of the Writ Petitioners Thiru.Elumalai filed a W.P.No.5340/2016 requesting to expedite the appeal petition and pass orders.

The Hon'ble High Court, Chennai in W.P.No.5340 of 2016 dated 12.02.2016 directed the Commissioner of Land Administration to consider the claim of the petitioner on merits in accordance with law.

The Commissioner of Land Administration, Chennai conducted the enquiry on 22.03.2016 with the counsel of the petitioners and with Revenue officials, perused the records and rejected the petitioners request in the proceedings ROC.F2/6703/2012 dated 15.09.2012 on the following grounds.



1. Alagapuram Village was merged with Salem Corporation limits as per G.O.No.108 dated 31.03.1994 and powers vested to Salem Corporation.

2. The land requested by the petitioners for assignment are located adjacent to Forest margins and Reserve Forest and in some places within 200 Sq.Meters

3. The lands are located within 8 km from Salem Corporation and District Head Quarters.

4. Even if, the Salem Tahsildar recommended for assignment in his report ROC.7309/94/B6 dated 30.06.1994, since the land is located within 8 km from Salem Corporation limits and banned for assignment as per G.O(pt) No.3166 Revenue dated 05.01.1966, the above lands are prohibited from assignment.

5. The lands are valuable lands and it is required for future purpose to Government and Tahsildar, Salem has reported that at Eastern side of the land, Forest lands are located and hence assignment could not be made as per R.SO.15. Aggrieved by the above orders, the Writ petitioners filed this present Writ for relief.

....

9. I submit that it is replied for the contention mentioned



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by the petitioner in support of his Writ Petition for para 9 that the lands could not be assigned as per R.S.O.15 since at the Eastern side of lands, forest lands are situated within 200 Sq.Meter. Further, the lands in question are banned from assignment as per G.O.Ms.3166 Revenue dated 05.01.1996 since it is located within 8 km from Salem Corporation limit.”

6.Heard the learned counsel appearing for the petitioners and the learned Additional Government Pleader appearing for the respondents and perused the materials available on records.

7.The facts in the present case is not in dispute. Admittedly, the petitioners made an application for assignment of land in terms of R.S.O. No.15. No doubt that the Government has power to assign the unobjectionable land in favour of the landless poor. In the present case, the original authority as well as the appellate authority rejected the petitioners claim on two grounds namely the G.O.Ms.3166 dated 05.11.1966 prohibits assignment of land situated within 8 kms from the headquarters and further the petitioners were not landless poor and therefore, they are not entitled for assignment of any land as they are earning a sum of Rs.30,000/- per annum. Though the contention that on the ground that the petitioner is an



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economically weaker section is not supported with any documents, however, the rejection order passed by the Revenue Officials is perfectly in order, since, the G.O.Ms.3166 prohibits the assignment of the land, if the land is situated within the 8 Kms of radius from the District Headquarters since the land is required for future public purpose. Without challenging the said provision of the G.O., filing the present Writ Petition is not sustainable and further the petitioners cannot claim the assignment of land as a matter of right and its purely the discretion of the Government with regard to assignment of unobjectionable lands. Hence, the prayer sought for in this Writ Petition cannot be granted.

8.This writ petition is accordingly dismissed. No costs.

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

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Chepauk, Chennai – 600 002.

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M.DHANDAPANI,J.
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