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W.P.No.2492 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.10.2022

Coram

The Honourable Mr.Justice M.DHANDAPANI

**W.P.No.2492 of 2014
and M.P.Nos.1 & 2 of 2014**

P.Velusamy

...Petitioner

Versus

- 1.The State of Tamil Nadu
Rep. by its Secretary to the Government,
Revenue Department,
Fort St.George, Chennai – 600 009.
- 2.The District Collector,
District Collectorate, Coimbatore.
- 3.The Junior Engineer,
Tamil Nadu Slum Clearance Board,
Coimbatore Circle,
13-A, Arokiasamay Road (West),
R.S.Puram, Coimbatore Division,
Coimbatore – 641 0002.
- 4.The Thasildar,
Thasildar Office, Kovai North.
- 5.The Revenue Divisional Officer,
Sarker Samakulam,
Coimbatore Taluk and District.
- 6.The Senior Deputy Director of Town and
Country Planning, Coimbatore.



7.Revenue Divisional Officer,
Coimbatore.

...Respondents

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Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records of the 2nd respondent Notice dated 13.02.2012 vide Na.Ka.No.22619/2011/A4 and the consequential Notice of the 3rd respondent dated 13.03.2012 in so far as it relates to Plot No.48 admeasuring 2,400 Sq.ft at Golden Nagar in S.No.482/1A, to quash the same and direct the respondents to restore the lands to the original position as per Schedule of the property mentioned in the petition.

For Petitioner	:	Mr.M.Aravind Subramaniam
For Respondents – 1, 2 & 4 to 7	:	Mr.U.Baranidharan, Additional Govt. Pleader
For Respondent - 3	:	Mr.S.Thirumavalavan

ORDER

The relief sought in this writ petition is to call for the records of the second respondent Notice dated 13.02.2012 vide Na.Ka.No.22619/2011/A4 and the consequential Notice of the third respondent dated 13.03.2012 in so far as it relates to Plot No.48 measuring to extent of 2,400 Sq.ft at Golden Nagar in S.No.482/1A, quash the same and direct the respondents to restore the lands to the original position as per Schedule of the property mentioned in the petition.



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2. The brief facts of the case are as follows:

The petitioner is the owner of the lands comprised in S.Nos.482/1, 482/2A & 2B measuring to an extent of 2,400 Sq.ft situated at Keeranatham, Coimbatore. He purchased the said land vide Sale Deed dated 30.06.1997 which was registered as Document No.4067 of 1997 on the file of Sub Registrar Office, Periyannayakam Palayam. From the date of execution of Sale Deed, he has been in possession and enjoyment of the said lands as an absolute owner.

2.1. Originally, the lands admeasuring to an extent of 10.17 Acres were allotted to one Mr.Chinnan and one Mr.Karuppan in the year 1924. In the very same year, as per D.R.8485/1333, Pattas were issued to Mr.Chinnan for 5.09 Acres and Mr.Karuppan for 5.08 Acres. Subsequently, the legal heirs of Chinnan and Karuppan had enjoyed the said lands. After a lapse of more than seven decades, their legal heirs had promoted the said lands as plots and after getting the approval from the sixth respondent, they sold the said lands to individuals through their Power of Attorney. The lands were later fragmented as Survey Nos.481/1 etc. which was sub divided into 482/1A, 482/2A & 482/2B etc.



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2.2. The petitioner purchased Plot No.48 in the approved layout admeasuring 2,400 Sq.ft in the year 1997. When he purchased the subject lands, no legal proceedings were pending to the said lands. The seventh respondent vide communication dated 31.01.1995 confirmed that there is no land acquisition proceedings in respect of lands in S.No.482/2A & 482/2B at Keeranatham Village, Coimbatore.

2.3. While so, during the year 1996, the legal heirs of said Chinnan and Karuppan filed writ petitions in W.P.Nos.16883, 17480 & 17542 of 1996 before this Court praying to direct the respondents therein not to dispossess the petitioners therein without resorting to due process of law in respect of the subject lands. This Court vide order dated 24.02.2004 disposed of the said writ petitions by directing the Revenue Divisional Officer, Coimbatore/third respondent therein to serve a copy of the order of Cancellation of assignment to the petitioners therein, within a period of 30 days from the date of receipt of a copy of that order and also, granting liberty to the petitioners therein to challenge the said cancellation order in accordance with law. However, till date, no cancellation order was served to any person.



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2.4. While so, the second respondent vide proceedings in Na.Ka.No.22619/2011/A4 dated 13.02.2012 transferred the lands comprised in S.Nos.482/1A, 2A & 2B situated at Keeranatham Village in favour of Tamil Nadu Slum Clearance Board. Pursuant to the same, Tamil Nadu Slum Clearance Board invited tenders for constructing multi-storied apartments to rehabilitate the encroachers in objectionable Government lands in and around Coimbatore city. Subsequent to the proceedings of the second respondent, the Revenue Inspector, Sarkkar Samakkulam firka of Coimbatore North Taluk vide Possession Certificate dated 13.03.2012, handed over the lands comprised in S.Nos.482/1A, 2A & 2B measuring to a total extent of 9.70 Acres situated at Keeranatham Village to the Tamil Nadu Slum Clearance Board. Aggrieved over the same, petitioner has filed the present writ petition before this Court for the relief stated *supra*.

3. The learned counsel for the petitioner submitted that the petitioner is the legal title holder to the subject lands and the respondents have not yet issued any order cancelling the original assignment. So, the subject lands cannot be taken away by the respondents without following the due process



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of law. The impugned proceedings were issued by the respondents on the wrong premises that the subject lands are Panjami lands, but, the fact remains that the subject lands are not Panjami lands. The impugned proceedings issued by the respondents 2 & 3 are against the principles of natural justice since they issued the same without even affording an opportunity to the petitioner to prove his title over the subject lands. Therefore, the learned counsel prayed that this writ petition may be allowed and the impugned proceedings issued by the respondents 2 & 3 may be quashed.

4. The learned counsel appearing for the third respondent drew the attention of this Court to paragraph no.4 of the counter affidavit, wherein, it is clearly stated by the third respondent that

(i) The erstwhile British Indian Government assigned agricultural lands to Depressed Class people in Keeranatham Village, Coimbatore Taluk. Since the assignment conditions were violated by the assignees and their legal heirs, the Government cancelled the assignment in favour of the various persons in Keeranatham Village.



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(ii) The subsequent purchasers viz., VGP Prem Nagar Minvariya Kudi Erupor Nala Sangam filed writ petitions in W.P.Nos.15171 and 17467 of 1996, VGP Housing Private Limited filed a writ petition in W.P.No.15121 of 1996, Mr.Thevvan Gandhi alias D.A.Chinnaswami filed a writ petition in W.P.No.14926 of 1997 and one Ms.A.Gurulakshmi filed a writ petition in W.P.No.4459 of 1998 before this Court. The prayer in the said writ petitions was mandamus forbearing the respondents from resuming lands comprised in Survey Nos.473/2A, 2B, 2C, 2D, 2E, 2F, 2G, 2G1A, 2G2, 482/1A, 1B, 2A, 2B of Keeranatham Village and Survey Nos.117/2B1, 2B2, 2B3 of Malumachampatti Village, Coimbatore Taluk. This Court vide its order dated 07.11.2008 dismissed all the above writ petitions.

(iii) As against the dismissal of said writ petitions, petitioners therein preferred writ appeals in W.A.Nos.1446 to 1448 of 2008. The said writ appeals were dismissed by this Court vide its order dated 05.04.2010. The said parties preferred Special Leave Petitions before the Hon'ble Supreme Court in SLP(Civil) Nos.27087, 27469 & 27675 of 2010. The Hon'ble Supreme Court dismissed the said SLPs vide its order dated 15.04.2013 by following the law laid down in the case of ***R.Chandevaram & Ors. Vs.***



State of Karnataka & Ors.* reported in **1995 (6) SCC 309.*

(iv) The lands comprised in Survey Nos.482/1A, 2A & 2B are also the subject matter of W.P.No.15121 of 1996 in the earlier round of litigation. But, in order to protract the issue further, one Association viz., S.S.Kulam, Lakshmi Nagar & Golden Nagar Plot Owners Welfare Association filed a writ petition in W.P.No.24991 of 2012 before this Court, however, the same came to be dismissed on 10.07.2013. This Court dismissed the said W.P.No.24991 of 2012 by observing as follows:

“7. The order handing over possession to the Slum Clearance Board is also not under challenge. The Board has already made a proposal for construction of 1280 tenements in the land, which is the subject matter of this writ petition. The impugned order is nothing but an intimation given by the seventh respondent about the order of allotment given to the Tamil Nadu Slum Clearance Board and the decision to construct multi-storied building to accommodate slum dwellers. The impugned order being a communication sent by the seventh respondent, would not give a cause of action to the petitioner to file a writ petition with a prayer to restrain the 7th respondent from dispossessing the plot owners from their respective land. It is open to the concerned land owners to approach the civil court to redress their grievances. The writ petition is not a remedy to preserve the alleged possession or to claim other rights with respect to the property.”

The learned counsel submitted that the petitioner is not a legal heir of



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original assignees. Without taking note of the terms and conditions of the assignment, the legal heirs of assignee transferred their right and interest over the subject lands to the third parties including petitioner. Moreover, the subject lands were originally classified as DC lands since the same were given to Depressed Class people, without verifying the records, petitioner purchased the said lands. Being a subsequent purchaser, petitioner has no title or interest over the subject lands. He further submitted that the present status of the subject lands is “Assessed Waste (Dry)” and therefore, Government transferred the said lands to the Tamil Nadu Slum Clearance Board. Therefore, this writ petition is not maintainable and the same is liable to be dismissed.

5. Heard the learned counsel on either side and perused the materials placed before this Court.

6. As far as this case is concerned, petitioner purchased the subject lands from the legal heirs of original assignee who transferred their right and interest over the subject lands to the petitioner and violated the terms and conditions of the assignment. Subsequently, the Government had cancelled



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the assignment patta in respect of the subject lands and transferred the said lands to Tamil Nadu Slum Clearance Board. Aggrieved over the same, petitioner is before this Court.

7. The issue raised in this writ petition has already been challenged before this Court in W.P.No.24991 of 2012, wherein, this Court vide order dated 10.07.2013 dismissed the said writ petition by granting liberty to the petitioner to work out his remedy before the Civil Court. In such a backdrop, the very same issue having been raised in this writ petition cannot be considered as it is barred by *res judicata*. In such circumstances, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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mrr

Index : Yes/No

Speaking Order (or) Non-Speaking Order



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M.DHANDAPANI, J.

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