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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
15.06.2022	22.06.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.25561 OF 2014

1. K.K.Chinnappan (Decd.)
2. K.K.C.Senthilkumar
3. Lakshmigandham
4. P.Malathi .. Petitioners
(P-2 to P-4 substituted as LRs
Vide order dated 12.4.22 made
In WMP No.9016/2022)

- Vs -

1. The Secretary
Health & Family Welfare Dept.
Government of Tamil Nadu
Fort St. George, Chennai - 9.

2. The Director of Medical & Rural Health Services
No.258, DMS Complex, 3rd Floor
Anna Salai, Teynampet, Chennai - 6.

3. The District Collector
Ariyalur District, Ariyalur. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records of the 1st respondent dated 2.9.2014 in Letter No.17497/F1/2010-20 quash the same and consequently direct the respondents to transfer the subject property to the petitioner on such terms and conditions as may be imposed by the Government.

For Petitioners : Mr. A.Jenasenan

For Respondents : Mr. P.Sathish, AGP

ORDER

The impugned order rejecting the request of the petitioners for transfer of lands, allegedly belonging to the Government in their names is assailed before this Court.

2. It is the case of the original petitioner, viz., the 1st petitioner, since deceased, that he has established



various educational institutions in the District of Ariyalur and towards the same, the lands, comprised in Survey No.328/18, Jayamkondam Village measuring an extent of about 57 cents was acquired from one Ramalingam by way of an unregistered gift deed by the 1st petitioner's father and after his demise, the said land devolved on the 1st petitioner and since then, the petitioner has been in absolute possession of the same. It is the further averment of the 1st petitioner that patta was granted in No.19 in his favour in the year 1995 by the revenue authorities. Out of the extent of 57 cents, the 1st petitioner avers that he settled an extent of about 2600 sq.ft., in favour of his son in the year 1998 and after the said settlement, the 1st petitioner applied for planning permission for construction of building in the subject property, which was granted vide proceedings dated 6.1.1998 and pursuant to the said permission, the 1st petitioner had also put up construction of ground plus three floors in the subject property.

3. It is the further averment of the petitioner that the subject property was acquired in the year 1963 from the previous owners for the purpose of constructing residential quarters and other facilities for the employees working in the district Hospital situated about 300 meters from the subject property. It is the further averment of the 1st petitioner that neither the Public Works Department nor the Revenue Department took possession of the subject property from himself or his father and the 1st petitioner and his family members have been in continuous possession and enjoyment of the property.

4. It is the further case of the petitioner that the in the year 1998, the Revenue Department initiated action under the provisions of the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act, 1975, against the 1st petitioner on the ground that the 1st petitioner is an encroacher on the subject property. Therefore, the 1st petitioner moved this Court by filing W.P. No.19378/1998 in which this Court had given direction and in compliance of the same, the District Collector, passed order on 1.12.1999 cancelling the patta issued in the name of the 1st petitioner. However, the District Collector, taking into consideration the fact that the 1st petitioner and his family has been in continuous possession of the property since 1955 and has put up construction on the basis of the sanctioned plan and that the 2nd respondent never took possession of the subject property nor use it for the purpose for which it was acquired and that none of the departments of the Government objected to the said construction put up and that the action for eviction have been taken at the instigation of rivals of the 1st petitioner, had directed the Tahsildar and Revenue Divisional Officer to send recommendations to the Government to reconvey



the land u/s 48-B of the Land Acquisition Act, 1894 (for short 'the Act').

5. It is the further case of the 1st petitioner that no action was taken by the Revenue Authorities on the directions of the Collector, but instead the 3rd respondent passed the order of eviction dated 8.5.2000 against which the 1st petitioner preferred C.M.A. No.5 of 2000, which was dismissed on 14.10.2004 against which W.P. No.31916/04 was filed. It is the further case of the petitioner that pending consideration of the said writ petition, the petitioner made a representation to the Government and offered alternative site equivalent to the subject property on the ground that the 1st petitioner had absolute possession since 1955 and had also erected buildings based on sanctioned plan. In view of the same, this Court in the pending W.P. No.31916/04, vide order dated 6.12.2004 directed the Government to pass orders on the said representation and in compliance of the said direction, the Government rejected the said request vide order dated 31.10.08 against which W.P. 28451/14 was filed, which was dismissed by this Court vide order dated 7.1.09 against which W.A. No.1466/09 was filed.

6. Pending the appeal, though the 1st petitioner filed representation offering alternate lands and other solutions, the writ appeal was disposed of by order dated 1.2.2010 directing the Government to take a decision on the offer made by the 1st petitioner. Based on the same, the 1st respondent directed the Addl. Secretary, Health & Family Welfare Department to inspect the subject property, evaluate the dispute and submit a detained report and report in this regard dated 24.2.2011 was filed recommending considering offering long terms lease to the 1st petitioner as a special case. The 1st petitioner also filed further representations, on which no orders have been passed and, therefore, W.P. No.755 of 2012 was filed by the petitioner and this Court had directed the Government to dispose of his representation. Pursuant to the said order, after affording an opportunity of personal hearing to the petitioner, the impugned order, rejecting the request of the petitioner was passed against which the present petition has been filed.

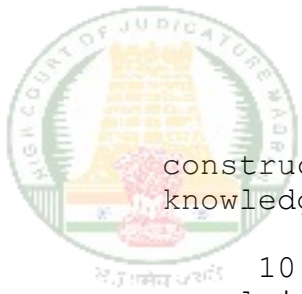
7. Learned counsel appearing for the petitioners submitted that the District Collector though had directed the Tahsildar and the Revenue Divisional Officer to place recommendation to the Government for reconveyance of land u/s 48-B of the Act, yet the said authorities have not complied with the said direction. It is the further submission of the learned counsel that in spite of the report of the Addl. Secretary, Health & Family Welfare Department recommending the long term lease of the property to the petitioners, the same have not been considered and the said



recommendations were rejected, inspite of the fact that a clear finding has been rendered by the said authorities that though the lands were acquired as early as in the year 1963, yet for almost 60 years, the same has not been used for the purpose for which it was acquired and neither the Revenue Department nor the Hospital authorities have raised any objection to the petitioners putting up construction on the said property and that the petitioner having been in continuous possession of the said for more than five decades and had also put up construction on the said land by obtaining necessary permission, the impugned order passed without appreciation of the aforesaid materials is wholly unsustainable and clearly reveals total non-application of mind on the part of the 1st respondent.

8. It is the further submission of the learned counsel for the petitioner that Section 16 of the Tamil Nadu Acquisition (Tamil Amendment) Act, 1996 provides for forfeiture of land by the Government in the event of the lands having not been utilized for the purpose for which it has been acquired and in the event of such forfeiture, the lands would vest with the Government, which can, thereafter, be transferred by way of sale, mortgage, gift, lease or otherwise. It is the submission of the learned counsel for the petitioners that the lands having not been used for the purpose for which it was acquired for more than a period of 65 years and the petitioners having been in possession and enjoyment of the property for more than 60 years and are running an educational institution in the said place and the subject lands are being utilized as girls hostel, affirmative direction can be given by this Court to the Government to consider to either lease out the subject lands or to consider sale of the said lands to the petitioner for a certain period so that the education of the next generation would not be affected.

9. Learned Addl. Government Pleader appearing for the respondents, reiterating the stand taken by the respondents in the counter affidavit, submitted that the subject lands were encroached by the petitioners, though the said lands were acquired as way back in the year 1963 vide Award Proceedings of the Revenue Divisional Officer, Ariyalur in Award No.3/63 dated 16.9.1963 and the lands were hands over possession and taken over by the Health & Family Welfare Department on 30.11.963. It is the further submission that the said lands were reclassified in the Natham Settlement in the year 1995, but the 1st petitioner, clandestinely obtained patta for an extent of 42 cents by utlising false and fabricated documents before the Special Tahsildar, Natham Settlement, Perambalur and to strengthen the said act, a gift deed dated 13.01.1998 was given in favour of his son, viz., the 2nd petitioner, and thereafter,



construction was carried out in the said lands without the knowledge of the Health & Family Welfare Department.

10. It is the further submission that only on receipt of complaint about the aforesaid act, conduct of enquiry revealed the issuance of patta on the basis of false and fabricated documents, which led to the initiation of eviction proceedings against which writ petition was filed before this Court and on the basis of the directions issued by this Court, the representation of the petitioners was examined leading to the cancellation of the patta. Further, the eviction proceedings were initiated by following the due process of law. It is the further submission that pursuant to the dismissal of the petition filed by the petitioners before the court below, writ petition was filed before this Court and in view of the stand taken by the petitioners to give alternate land in lieu of the encroached land, direction was issued to consider the representation of the petitioner, which was also dismissed. Further, the report of the Addl. Secretary to Government was also taken note of and considering that the subject lands are exclusively required for the welfare of patients and for expansion of the hospital and to cater to the health care needs of the lower strata of society, the petitioner's representation was rejected.

11. It is the further submission that the petitioner has no locus standi to challenge and has no right about to speak about the purpose of utility of the lands for expansion of the hospital. When the lands have been acquired by the Government for expansion of hospital and when the alternative site offered by the petitioners are found not to be suitable, the rejection of the representation of the petitioners cannot be said to be unjust or unreasonable, as the lands have been acquired for a public purpose and the requisitioning authority is the best judge to decide which lands would be suitable for the said public purpose. Further, when the lands have been under the possession of the Health Department since 1963, the petitioners, being encroachers, have no right over the said subject lands and merely because they have obtained patta through false and fabricated documents and basing the said documents, the petitioners have obtained the sanction plan to construct the superstructure, the said sanction plan does not have the sanctity of law and is void.

12. It is the further submissions of the learned Addl. Government Pleader that the petitioners are not entitled for the benefit of Section 16 of the Tamil Nadu Acquisition (Tamil Nadu Amendment) Act for the reason that not only the Health Department requires the land for expansion of construction for its own use, but the Government, being the authority has not



invoked its powers to forfeit the said land from the Health Department and, therefore, the petitioners, being encroachers, merely because, they have constructed the superstructure, cannot impose upon the Government to exercise its powers u/s 16 and forfeit the subject lands and, thereafter, hand over the same to the petitioners either by way of sale, gift, mortgage, etc. There being no violation of principles of natural justice in the passing of the order and the orders having been passed in accordance with law and this Court also, having time and again, disposed of the various petitions of the petitioners only with a simple direction to consider the petitioners representation and pass orders, the petitioners cannot take the said order to be an affirmative direction to consider the representation of the petitioners to benefit them. Accordingly, he prays for dismissal of the writ petition.

13. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and also perused the materials available on record.

14. The sequence of events that have unfolded in this case baffles even this Court as to the temerity with which the petitioners have come before this Court time and again to seek certain orders, merely on the basis of certain administrative orders having been issued by authorities, without jurisdiction or for reasons best known to them.

15. The main plank of argument of the learned counsel for the petitioners is that the reports of the District Collector and the Addl. Secretary to Government having held in favour of the petitioners, the said reports are to be considered in proper light before passing orders, which have not been done by the 1st respondent, which requires to be interfered.

16. The unregistered gift deed, alleged to have been entered into between the 1st petitioner's father and one Ramalingam is the first material, on which claim is based by the petitioners to enter into the property and claim continuous possession. The alleged unregistered deed is said to have been entered into in the year 1955. Yet, there is no material to show that such a deed was entered upon and the petitioners have also not placed the alleged gift deed in the typed set of documents to give an impetus to their claim.

17. Even according to the petitioners, the subject property was acquired in the year 1963 for the purpose of constructing residential quarters for the District Hospital staff. The counter affidavit of the respondents reveal that award was passed in the year 1963 in Award No.3/63. It is the case of the respondents that possession was taken and handed over to the



Health & Family Welfare Department on 30.11.1963. However, there is no material placed by the respondents to show that possession was taken in accordance with law and till such time a complaint was made in the year 1997, the respondents had not taken any effort to retrieve the subject lands from encroachment. Further, it transpires from the record that only in the year 1995, patta was applied and obtained by the petitioners. Therefore, from 1955 to 1995, for about four decades, the petitioners were not in possession of any document to show that they were in legal possession, but for the illegal encroachment. Further, as pointed out above, the alleged unregistered gift deed, which is the basis for the petitioner's possession of the property has not been filed before this Court. However, the said document, viz., the unregistered gift deed formed the basis of issuance of patta, which has been held to be false and fabricated by the District Collector and the patta was cancelled. However, against cancellation of the said patta, no petition was filed before this Court, but only insofar as the notice of eviction is concerned, petition was filed before this Court by the petitioners. When eviction proceedings were initiated against the petitioners, the same was questioned by filing W.P. No.19378/1998 in which direction was issued to the District Collector, Perambalur, to pass orders. Pursuant to the said direction, the order cancelling patta has been passed by the District Collector. However, the report of the District Collector assumes significance on many counts.

18. A perusal of the report of the District Collector reveals that the legal heirs of the Ramalingam Pillai, from whom the 1st petitioner allege that his father had received the property by way of an unregistered gift deed, have participated in the acquisition proceedings and received the compensation and that they have not filed any appeal against the said acquisition. Further finding has been recorded therein that during the reclassification of land at the time of Natham Settlement, there is no record relating to any chitta or adangal relating to Patta No.919, which is claimed by the petitioners as having been issued to them. From the above, the District Collector has recorded a categorical finding that the patta is a false and fabricated document and based on the said false and fabricated patta, the 1st petitioner has entered into a gift deed with his son in the year 1998.

19. The crucial part of the order follows thereafter. After recording the aforesaid findings, the District Collector, for reasons and interests best known to him, has held that in the absence of the requisitioning body utilizing the lands so acquired within the prescribed period, the person from whom the lands were acquired could seek reconveyance of the said lands and law provides for the same. The District Collector has



further held that since the lands are in close proximity to the Hospital, for which purpose the said lands were acquired and during the time construction activity was carried on by the petitioners, the requisitioning body having not made any attempt to thwart the act of encroachment caused by the petitioners and that building having been put up on the subject lands, the District Collector had directed the Tahsildar and the Revenue Divisional Officer to make appropriate recommendation to the Government for reconveyance of the lands u/s 48-B of the Act and further holding that it is for the Government to decide on the same and till such time a decision is taken, not to disturb the superstructure put up on the property.

20. From the above, it is evident that when the District Collector has rendered a finding that the petitioners have no right on the lands and that the patta itself has been a fabricated one, based on which planning permission was obtained and construction had been put up. Such being the admitted position, as revealed by the report of the District Collector, what prevailed on the District Collector to give such an affirmative direction to the Tahsildar and Revenue Divisional Officer to initiate recommendations for reconveyance of lands to the petitioner is a question which is short of answer, as it is not the case of the District Collector that the petitioners are the owners of the lands. When the owners of the lands have not come before the District Collector and claim reconveyance, the act of the District Collector in giving such a direction only raises more queries, than trying to douse the issue once and for all. This Court is at a loss to understand as to the provision of law under which the District Collector is clothed with such power to pass such a direction for making a recommendation reconveyance of the subject lands. Further, what is more pertinent to note here is the fact that the District Collector was called upon to decide the representation given against the eviction proceedings, but the District Collector, while not only cancelling the patta, has given the aforesaid direction and the District Collector not having been vested with any power to make recommendation for reconveyance, this Court, in view of judicial propriety, is not amplifying the said act any further.

21. Be that as it may. The next piece in the jigsaw is the report of the Addl. Secretary to Government, Health & Family Welfare Department, who was directed to find out as to the feasibility of entertaining the request of the petitioners for giving alternate lands in lieu of the subject lands. A careful perusal of the report of the Addl. Secretary reveals very many startling facts, which are enumerated hereunder :-

- i) The land in question is allegedly in the possession and enjoyment of the 1st petitioner since 1955;



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- ii) That the lands were acquired under the Act for the purpose of medical staff quarters, though actual possession was not taken over;
- iii) That no person was allowed to enter the lands in the past 55 years for spot inspection, measurement, photograph and estimates;
- iv) That the entire land was well protected by fencing and compound wall by the 1st petitioner and opened only for the purpose of the present inspection on 24.2.2011;
- v) That the alternative lands offered by the 1st petitioner are situate at a distance of 2 to 3 Kms., from the Government Hospital and are not feasible for construction of staff quarters;
- vi) That the alternative lands are not in the name of the 1st petitioner;
- vii) That direction was given by this Court in W.A. No.1466/09 to decide on the offers of the petitioner either way.

22. The above facts have not been disputed on any front in any manner by the petitioners. The representation of the petitioners is only to the effect that due to the long possession of the petitioners of the subject lands and the constructions that have been put up thereon, the subject lands may be conveyed to them by the Government by taking alternative property.

23. As stated above, the report of the Addl. Secretary clearly reveals that the alternative properties suggested by the petitioners are not feasible for being utilized for the purpose of construction of staff quarters. Further, the report also reveals the Medical Department and Revenue Department have not taken diligent efforts in preventing any construction from being carried on in the said lands. The report further states that even after a lapse of 48 years the Revenue Department has not invoked Section 16-B of the Act to forfeit the land as penalty and further the Village Administrative Officer and the Revenue Inspector of Jayankondam have not even noticed the construction activity and informed the same to the higher officials.

24. The findings relating to the land, it being guarded by the petitioners without any person being allowed to enter into the land coupled with the alleged inaction of the Revenue Department and Medical Department not only goes to show the hold that the petitioners have on the subject lands but also the influence of the petitioners as the Revenue Department and the Medical Department officials have not taken any steps relating to taking possession of the lands pursuant to the acquisition



and the reason for inaction of the said authorities is writ large on the influence exerted by the petitioners.

25. Further, delving into the report of the Addl. Secretary, it transpires that a categorical finding has been recorded by the said authority that a false patta in No.919 has been issued to the petitioner even in the absence of any evidences/entries in the fair Adangal, Chitta and FMB maintained in the Taluk Office and Village Office, which was done by tampering the records, which was done with an ulterior motive to cheat the Government.

26. However, when such finding has been recorded by the Addl. Secretary aforesaid, what baffles this Court most is the fact that thereafter, the unregistered gift deed alleged to have been entered into between the owner of the property, viz., Ramalingam Pillai and the father of the 1st petitioner is accepted to be genuine merely on the basis of the partition deed alleged to have been executed between the legal heirs of Ramalingam Pillai on the sole ground that there is no reference to the said subject lands in the said partition deed and, therefore, the unregistered gift deed and physical possession of the petitioners have been accepted to be genuine. If such a finding is to be accepted, then this Court feels that the mechanism which have been evolved for deciding the title would no longer need to be in the statute and the administrative authorities could very well give a finding as to the genuineness or otherwise of the title of a concerned individual to a particular property. The above finding of the authority in the latter part of the report is diametrically opposite to the finding in the former portion of the report.

27. One other ludicrous explanation offered in the report for the genuine effort of the petitioners to hold the land is that the petitioners have challenged each and every notice and order before this Court by spending a huge amount over the past 14 years to establish their right and title over the subject land and this would grant legitimate rights to the petitioners to seek reconveyance of the property. The above view recorded by the authority desires a lot to be said, however, this Court refrains itself from expressing anything much further. If the fight carried on by the petitioners could be the basis for granting legitimacy to any act, heavens forbid that every citizen would adopt such an attitude towards his wrong doing, which should be taken as a legitimate action.

28. The other recording that is of much importance and glaringly exposes the nexus of the various authorities is the fact that the then District Collector, Perambalur, on the basis of the directions of this Court in W.P. No.19378 and 19379/1998



has passed an order dated 1.12.1999, which has already been discussed threadbare in the preceding portion of the order, by directing the Tahsildar and the Revenue Divisional Officer to send proposal to the Government for reconveyance of the land as per Section 48-B of Act XVI of 1997. However, the said order was revised by the by the succeeding District Collector by ordering eviction on the ground of encroachment and on the ground that no representation was received by the revenue authorities from the original land owner/legal heirs for return of the lands as per Section 48-B of the Act. If not for the some nexus of the petitioners with the authorities earlier in point of time, such a report would not have been filed by the District Collector, more so when the petitioners are not the owners of the subject lands and have no title to the subject lands.

29. The report further proceeds that the revenue authorities have wasted time by trying to take instructions and directions and ordering notices without taking any concrete efforts to safeguard the interests of the Government in the lands acquired by them by paying compensation. Further finding is also recorded that the Medical Department and the Public Works Department could not enter the land even for taking measurements of the building and preparing estimate for demolition despite repeated instructions from the Commissioner of Land Administration and the Government, Health & Family Welfare Department. Further finding is also recorded that the Land Acquisition Act does not have any provision for return of lands acquired by taking alternate lands.

30. The above background of events clearly demonstrates that all is not well with the petitioners as well as the Revenue Department and the Medical Department. If really the Revenue Department and Medical Department were diligent in their efforts, they could have very well taken possession of the property, but for influence of the 1st petitioner. The influence of the petitioners have spread far and wide is evident from the fact that even in respect of alternate lands, which the petitioners, by way of their representations, are continually trying to offer, the said lands are not their own lands, but lands belonging to other persons, which are sought to be purchased if and only if the respondents accept the alternate lands. Here too, the petitioners have no title to the lands, which are sought to be offered alternatively on the date of inspection.

31. It is clear from the above that the petitioners have no title to the subject lands, but for the chit given through the report of the Addl. Secretary that the petitioners were genuinely contesting the case and trying to establish their



right and title over the subject lands. As stated above, the unregistered gift deed is not placed before this Court and even if the said document is placed, the said document would not confer any right on the petitioners to claim title to the subject lands. Further, the partition deed between the legal heirs cannot be taken in aid of to prove the unregistered gift deed between Ramalingam Pillai and the 1st petitioner's father to be genuine. Further, the alleged partition deed, which is relied on to give impetus to the unregistered gift deed has been executed in the year 1959, yet during the land acquisition proceedings, the legal heirs of the said Ramalingam Pillai have participated in the enquiry process and without any demur received the compensation and not agitated the matter any further and the petitioners, also oblivious of the fact of acquisition proceedings, have not taken any steps, on the basis of the unregistered gift deed, either to claim compensation or agitate their rights by contesting the land acquisition proceedings. Even according to the report, the petitioners have been in possession of the property since 1955 and if really the petitioners had the property to themselves by means of the unregistered gift deed, definitely the petitioners would have contested the acquisition proceedings, which they have miserably failed to do and in fact, the petitioners, on their own volition accept that the legal heirs of Ramalingam Pillai participated in the enquiry and received the compensation for the subject lands. If that be the case, it does not lie in the mouth of the petitioners to claim the subject lands, except by way of illegal occupation since 1955. Further, compensation having been received by the legal heirs of Ramalingam Pillai, the land stood vested with the Government and any person, being an illegal occupant, would not have any right to claim possessory right over the said property without having any right over the property.

32. From the above chronological sequence of events, it is manifestly clear that the petitioners are not the owners of the property. The above has been accepted by all the authorities, viz., the District Collector, who had initially cancelled the patta and also the Addl. Secretary to Government, who had given his report pursuant to the orders of this Court in W.A. No.1466/09. When that be the case, this Court is unable to comprehend as to how the then District Collector had recommended the reconveyance of the lands by the Government u/s 48-B of the Act. As observed by the Addl. Secretary in his report, if at all the lands are to be reconveyed, it can be reconveyed only back to the original owners upon return of compensation received in accordance with law. However, the petitioners are not the original owners of the subject land and that being the case, the claim for reconveyance of the lands or the recommendation for



reconveyance of lands have no legal legs to stand and would not be in any way useful to the petitioners.

33. Further, the report of the Addl. Secretary has clearly held that the lands were in occupation of the 1st petitioner for the past 55 years and that no authority was allowed to even make spot inspection, measure the lands, photograph and estimate the entire land and it was protected by fencing. This clearly shows the efforts taken by the petitioners to shield the land, inspite of having no title to the same and having kept silent for more than four decades, have acquired a patta only in the year 1995, which has also been cancelled citing fabrication of documents and patta. More importantly, at the risk of repetition, it is to be pointed out that against the said cancellation of patta, the petitioners have not questioned the said cancellation before the Court of law and only the eviction proceedings initiated by the District Collector in the year 2000 has been unsuccessfully put in issue.

34. Pausing here for a moment, three options have been tabulated by the Addl. Secretary in his report in which this Court has already dealt with the reconveyance u/s 48-B and has held against the petitioners. The other two options given in the said report of which one pertains to demolition of the building erected by the petitioners and evicting the unauthorized occupants from the said premises and the other pertains to the invocation of Section 16-A of the Act for transfer of subject property by way of long term lease to the petitioners for running the hostel.

35. Insofar as the question of invocation of Section 16-A of the Act for transfer of subject property by way of long term lease to the petitioners for running the hostel is concerned, it is to be pointed out that the petitioners are unauthorized occupants of the said lands and have been holding the lands for more than six decades, though as early as in the year 1963 the lands have been acquired and the lands stood vested with the Government on compensation being received by the land owners. True it is that the lands have not been put to use for the purpose for which it was acquired and, therefore, u/s 16-B the Revenue Department could recommend the Government for forfeiture of land from the requisitioning body. However, till date such a process has not taken place and forfeiture has not been recommended by the Revenue Department. Further, as on date, the Medical Department, for which lands were acquired, have shown inclination to take the land and construct staff quarters in the said land. Merely on the ground that the lands have not been utilized till date, this Court cannot order forfeiture of the lands by the Government u/s 16-B of the Act more especially when the Medical Department has shown inclination to utilize the



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38. If acts, such as the one perpetrated by the petitioners, are allowed to continue by giving directions to the Government to consider leasing out the lands to the petitioners on long term basis, it would not only defeat the object for which the lands were acquired, but it would also lead to a situation, where any person can illegally encroach on the lands of the Government and utilize the same for unjustly enriching himself with the aid of the officials shielding the illegal acts committed by such individual and in such a scenario, the day would not be very far when all the lands belonging to the Government would be usurped by individuals with a devious mind and intention and the Government would be left with no lands at



its disposal for carrying out developmental activities and even for a small developmental activity for the welfare of the public, the Government has to resort to acquisition of lands by shelling out quite a lot of money as compensation from its coffers and the time for such acquisition would also have a detrimental effect on such developmental activity.

39. The petitioners have all along been in the know-how of things and had knowledge of the acquisition, yet, for reaping illegal gains, the petitioners have gone ahead and constructed the superstructure by obtaining approval on the basis of a document, which has been held to be a fabricated one. If not for the fabricated patta, the petitioners would not have been granted the approval for construction. A fabricated patta, which formed the basis for the grant of approval for construction, on being cancelled, the approval granted to the said construction would also be deemed to be void and, therefore, necessarily, the building requires to be demolished. However, the petitioners, since the construction and till date have utilized the construction to unjustly enrich themselves. The act of the petitioners in unjustly enriching themselves these long years on the property, which legally belonged to the Government, the petitioners definitely have to compensate the Government for the unjust enrichment enjoyed by them. The petitioners cannot be allowed to walk out scot-free without parting with their due share for the illegal act committed by them. Merely because the petitioners have challenged the various notices and orders, issued by the authorities before this Court diligently, as enumerated by the Addl. Secretary in his report, would not confer any special right or benefit on the petitioners and clothe their illegal act with sanctity of legality. When the petitioners did not have any right over the subject property, there is no question of any diligent action being undertaken by them to get back the property. Rather, the act of the petitioners is only for the purpose of defeating the legitimate claim of the Government to the use of the said lands by resorting to the judicial machinery to put spokes in the wheel of the Government machinery in taking control of the property. Therefore, this Court is of the considered view that instead of the superstructure put up by the petitioners being demolished, towards the unjust enrichment reaped by the petitioners in holding the property for this length of time, the superstructure put up by the petitioners on the property of the Government should be taken over by the Government and utilized for a just public cause, which alone would meet the ends of justice.

40. For the reasons aforesaid, the relief sought for by the petitioners cannot be acceded to and the petition being devoid of merits deserve to be dismissed. Accordingly, this writ



petition is dismissed. Further, this Court, in exercise of its extraordinary powers under Article 226 of the Constitution, directs the Government to take steps to evict the illegal occupants from the building put up on the property and utilize the superstructure put up thereon by the petitioners for public purpose in lieu of compensation to be paid by the petitioners towards unjust enrichment reaped by them from the said property. In the circumstances of the case, there shall be no order as to costs.

41. Before parting with the case, this Court is not also averse to point out that in the case on hand, the officials of the Government have been a thorn in the flesh of the Government by not taking proper steps against the petitioners at the pertinent points of time, but have been dragging the matter for the benefit of the petitioners. Had the person been someone not enjoying the clout such as the 1st petitioner, the said individual would have been dragged from pillar to post by all the Governmental agencies even in respect of a small fraction of land, be it his own, which has been acquired by the Government or some land, which has been illegally encroached upon by the individual for the purpose of his shelter or livelihood. The differing yardstick being adopted by the officials not only affects the citizens, but also showcases the Government in a bad light before the public. Unless stern action is not taken against such officials, who act against the interests of the Government, the day is not too far when the Governmental machinery would be in complete break down and would be at the mercy of unscrupulous elements like the petitioners, who would wield their muscle power and money power to get things done the way they want. The Government may introspect on the above aforesaid and take necessary steps for setting right the machinery in the larger public interest.

Sd/-

Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

GLN

To

1. The Secretary
Health & Family Welfare Dept.
Government of Tamil Nadu
Fort St. George, Chennai - 9.



2.The Director of Medical & Rural Health Services
No.258, DMS Complex, 3rd Floor
Anna Salai, Teynampet, Chennai - 6.

3.The District Collector
Ariyalur District, Ariyalur.

+1cc to Mr.A.Jenasenan, Advocate SR.No.38787

+1cc to Government Pleader SR.No.38006

+1cc to Mr.A.Jenasenan, Advocate SR.No.38787(04/07/2022)

W.P. NO.25561 OF 2014

JPL(CO)
GMY(29/06/2022)