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W.P.No.9882 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.9882 of 2017
and WMP.Nos.10880 & 10881 of 2017

K.Krishnan

... Petitioner

-Vs-

1. The State of Tamil Nadu
Represented by
Commissioner and Secretary to Government,
Adhi Dravidar and Tribal Welfare Department,
Fort St. George,
Chennai – 600 009.
2. The State of Tamil Nadu,
Represented by
Secretary to Government,
Revenue Department,
Fort St. George,
Chennai – 600 009.
3. The District Collector,
Dharmapuri District,
Dharmapuri.
4. The District Adhi Dravidar Welfare Officer,
Dharmapuri District, Dharmapuri.



W.P.No.9882 of 2017

WEB COPY

5. Revenue Divisional Officer,
Harur, Dharmapuri District.

6. The Tahsildhar,
Harur Taluk,
Dharmapuri District.

7. The Special Tahsildar,
Adhi Dravidar Welfare,
Harur, Dharmapuri District.

... Respondents

Prayer : Writ Petitions under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the respondents and their officials of other persons from interfering with the peaceful possession and enjoyment of the land comprised Survey Nos.396/1A, 396/1K and 397/6 measuring to an extent of 1.41.0 survey situate at No.17, Polayampalli Village, Harur Taluk, Dharmapuri District.

For Petitioner : Mr.C.Prabakaran

For Respondent : Mrs.Akila Rajendran
Government Advocate

ORDER

The petitioner's land in S.Nos.396/1A, 396/1K and 397/6 in Polayampalli Village, Harur Taluk, Dharmapuri District was sought to be acquired for the purpose of providing house sites to the Adi Dravidar Welfare under the relevant land acquisition Act.



W.P.No.9882 of 2017

2. The said land acquisition proceedings were challenged before this Court earlier by the writ petitioner in W.P.No.5244 of 1996.

3. In the said writ petition, interim order of stay of dispossession was granted by this Court by order dated 22.04.1996. Thereafter, the very writ petition itself came to be allowed by the order of this Court dated 01.04.2002, where the following orders have been passed:

“8. In the result, the writ petition is allowed as prayed for and it is open to the respondents to proceed afresh from the stage in which the defect had occurred. No costs. Connected W.M.P.No.8273 of 1996 is closed.”

4. Therefore, the land acquisition proceedings were quashed. However, liberty was given to the authorities concerned to proceed afresh from the stage in which the defect had occurred.

5. However, according to Mr.C.Prabakaran, learned counsel appearing for the petitioner that thereafter, no such proceedings were initiated by the respondents. However, based on the earlier proceedings, even though it has been quashed by this Court, unmindful of the same, the respondents are trying to take possession of the property and



W.P.No.9882 of 2017

therefore, it become necessitated for the petitioner to file the present writ petition seeking for a writ of mandamus forbearing the respondents and their officials or other persons from interfering with the peaceful possession and enjoyment of the land and property of the petitioner.

6. In this context Mrs.Akila Rajendran, learned Government Advocate appearing for the respondents has relied upon the counter affidavit filed by the seventh respondent on behalf of the respondents, where *inter alia* it has been stated as follows:

“4. I submit that the land owner Thiru.Krishnan filed a writ petition in W.P.No.5244 of 1996 challenging the 4(1) notification and the Hon'ble Court had ordered interim stay of dispossession on 22.04.1996 on 01.04.2002 the writ petition was allowed by the Hon'ble Court as the sought for.

5. I submit that 263, pattas were given to the beneficiaries, changes were carried out in the village accounts on 07.06.1996 itself. Under these circumstances the Hon'ble Court allowed writ petition and also given an opportunity to initiate fresh acquisition process. However the land owner constructed a house in the acquired land and carrying agriculture activities. The beneficiaries availed house site pattas are often demanding to locate their house sites as per the layout. As such that the beneficiaries with



WEB COPY



W.P.No.9882 of 2017

certain social organizers demonstrated that they were entering into the petitioner's land. Infact it was negotiated with the beneficiaries and others by Revenue Divisional Office, Harur.

6. I submit that charges were carried in the village accounts as Arunthathiyar colony before the out come of the Court order dated 01.04.2002. In the W.P.No.5244 of 1996, the High Court of Madras delivered judgment giving opportunity to proceed a fresh acquisition process to the respondents. In this regard, a separate action is being taken to obtain decision of the Government which is in perusal. Hence the petitioner's request of transfer of name in the revenue records is not considered right now.”

7. Relying upon these averments made in the counter affidavit, learned Government Advocate appearing for the respondents would contend that, even well prior to the order passed by this Court i.e., setting aside or quashing the land acquisition proceedings, patta has been issued to 263 persons, who are the beneficiaries and some mutation also has been effected in the land records. Therefore, at this juncture whether the petitioner can seek for such prohibitory order against the official respondents from interfering with the said possession of the property in question would be detrimental to the benefit of 236 pattathars in whose



W.P.No.9882 of 2017

favour, the pattas have already been issued as for the said purpose alone, the land belongs to the petitioner was acquired.

8. I have considered the said submission made by the learned counsel appearing for both sides and have perused the materials placed before this Court.

9. The fact remains that though land acquisition proceedings were initiated and the petitioner's land was acquired, however, due to the defects, grounds have been raised and writ petition was filed against the land acquisition proceedings, which was allowed by the orders of this Court dated 01.04.2002 as stated supra.

10. Though liberty was given to the respondent to proceed afresh from the stage in which the defects had occurred, even according to the averments made in the counter affidavit, which has been quoted herein above, no such subsequent proceedings seem to have been initiated by the respondent. Therefore, either they have given up the proposal or they left this at the stage, where the land acquisition proceedings have been



W.P.No.9882 of 2017

quashed. Therefore, in the eye of law as on date there has been no land acquisition proceedings and whatever the action taken by the respondents prior to the quashment of the land acquisition proceedings including the issuance of patta to the beneficiaries that would not change or alter the situation as it would not entitle either the respondents or the beneficiaries to claim right over the property, which, as on date, stands in the name of the petitioner and his right has been protected by the quashment of the land acquisition proceedings.

11. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders:

That there shall be a direction to the respondents not to interfere with the peaceful possession and enjoyment of the property in question belongs to the petitioner, in view of the quashment of the land acquisition proceedings by order dated 01.04.2002, as no such subsequent proceedings since have been issued by the respondents, such a protection, for which the petitioner is entitled to is given. Accordingly, the aforesaid order is passed.



W.P.No.9882 of 2017

5. Revenue Divisional Officer,
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6. The Tahsildhar,
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7. The Special Tahsildar,
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W.P.No.9882 of 2017

R. SURESH KUMAR, J.

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W.P.No. 9882 of 2017

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