



W.P(MD)No.211 of 2021 etc batch.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 12.07.2022

PRONOUNCED ON : 06.09.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.211, 218, 221, 224, 226, 231, 234, 376, 383, 384, 385, 387, 388,
390, 394, 396, 400, 402, 403, 406, 408, 412, 417, 425, 428, 429, 432, 435, 437,
438, 440, 444, 445, 448, 453 459, 464 & 467 of 2021

and

W.M.P.(MD)Nos.173, 178, 182, 185, 187,191, 194, 298, 300, 303, 305, 308,
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10957, 10958, 10959, 10960, 10962 & 11028 of 2021

In W.P.(MD)No.211 of 2021

K.Velu

... Petitioner

Vs.

1.The Principal Secretary,
Department of Revenue,
Secretariat,
Chennai-9.



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2. The Government of Tamil Nadu,
Rep. by its Commissioner,
Land Administration Department,
2nd Floor, Ezhilagam, Chepauk,
Chennai-05.

3. The District Collector,
Ramanathapuram,
Ramanathapuram District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.(Pi 7) 33780/2014, dated 04.11.2020 on the file of the third respondent and quash the same as illegal and consequently, for a direction, directing the respondents to grant patta to the petitioner in their land in New Survey No.30 (Old Survey No.19) in an extent of 4.75 Acres at Kuthiraimozhi Group within the time frame fixed by this Court.

For Petitioners : Mr.T.Lajapathi Roy

For Respondents : Mr.P.Baskaran
Additional Advocate General
(in all W.Ps)

COMMON ORDER

Heard the learned counsel appearing for the writ petitioners and the learned Additional Advocate General appearing for the respondents.

2. The issue raised in all these writ petitions is one and the same. On 10.04.1972, the Agriculture Department in order to implement the Coconut



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Development Scheme allotted lands in favour of as many as 85 beneficiaries in Kuthiraimozhi Group, Kadaladi Taluk, Ramanathapuram District. Each allottee was given 4.75 acres on condition that he or she must engage in coconut cultivation and that they should not grow any other crop. Since a formal order of assignment was not issued and what was issued was only a conditional handing over of the lands, the beneficiaries / their legal heirs filed W.P.(MD)No.8762 of 2015 for directing the Government to grant patta. When the matter was taken up for hearing, it was submitted that the authorities have initiated action for evicting the writ petitioners. Recording the said submission, the writ petitions were dismissed. When such eviction orders were eventually passed on 19.02.2015, W.P.(MD)Nos.2464 and 10785 of 2017 were filed by some of the affected parties. Since the orders impugned in the writ petitions were not preceded by any show cause notice, interim stay was granted on 20.02.2020. But liberty was given to the authorities to proceed afresh on merits and in accordance with law. In terms of the said liberty, the impugned orders came to be passed. Challenging the same, these writ petitions have been filed.

3. The primary ground taken in the writ petition is that proper enquiry was not conducted and a stereotyped approach had been adopted. It is also pointed out that pattas had been granted in favour of similarly situated persons



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in the neighboring Naripaiyur Village. It is also contended that as on date, valuable palmyra trees are standing on the properties and it is not correct to contend that the allotment conditions were breached. The learned counsel pressed for quashing the impugned orders and sought a direction to the respondents to grant patta to the respective writ petitioners.

4. The respondents filed counter affidavit. The learned Additional Advocate General contended that the order issued on 10.04.1972 should not be construed as an assignment order. By the said order, a piece of land was given to the respective beneficiaries with a specific mandate that they should cultivate coconut trees in three acres and grains in the remaining area. From the records, one can note that none of the allottees engaged themselves in coconut cultivation. Since the allotment condition had been violated, after giving them opportunity, cancellation orders had been passed. There is no violation of the principles of natural justice. The learned Additional Advocate would also point out that the Government now proposes to hand over the lands to the TWAD Board for establishment of a desalination plant. He further contended that when the writ petitioners do not have any enforceable legal right, they cannot maintain the present writ petitions. He called for their dismissal.



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5. I carefully considered the rival contentions and went through the materials on record.

6. I have to necessarily sustain the contention of the learned Additional Advocate General that the allotment order dated 10.04.1972 cannot be equated to an order of assignment. The beneficiaries were each given a piece of land with condition that they must engage in coconut cultivation. The beneficiaries or their legal heirs cannot insist that they will retain the land in perpetuity. The petitioners have no right to demand that they should be issued with patta. When the Government proposes to set up desalination plant through TWAD Board, the interest of the petitioners will have to necessarily give way. It is well settled that individual rights are subordinate to public interest. In this case, the petitioners herein do not have right as such. They only have interests. It is beyond dispute that the coastal areas in Ramanathapuram District are facing acute water scarcity. The District itself has always been drought prone. The proposed desalination plant is expected to treat thousands of liters of water every day and cater to the needs of the residents in the vicinity. It is stated that potable water will be supplied to a large number of panchayats. But it is not as if the TWAD Board would require the entire extent of land covered under the order dated 10.04.1972. It appears that at best, 40 acres of land may be



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required. Before me, a sketch was produced and it indicates the exact area on which desalination plant is proposed to be put up. Since the land allotted to the respective beneficiaries had been allotted after due demarcation, I called for an informal report as to who will be the affected, if the desalination plant is set up. After conducting field inspection, it was stated that while Krishnan / petitioner in W.P.(MD)No.432 of 2021, Durairaj / petitioner in W.P.(MD)No.38 of 2021 & Tamilarasi / petitioner in W.P.(MD)No.403 of 2021 will have to lose their lands in full, Poochendu / Petitioner in W.P.(MD)No.408 of 2021, Karuppiah Thevar / petitioner in W.P.(MD)No.385 of 2021 & Panchavarnam / petitioner in W.P.(MD)No.224 of 2021 will have to lose their lands in part. It appears that as on date, the trees are standing in the respective portions. Obviously, these trees were not grown by the department. These persons will have to be appropriately compensated.

7. I permit the persons who will be affected by the setting up of desalination plant to submit individual representations to the District Collector, Ramanathapuram District who shall consider the same and pass appropriate orders on merits and in accordance with law. I make it clear that 40 acres of land required for setting up the desalination plant can very well be taken over by the District Administration for the purpose of handing over the same to the



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TWAD Board immediately. Of-course, a formal eviction notice will be given to the respective persons. They will have to be given reasonable time to make appropriate arrangements also.

8. As regards the remaining petitioners whose lands are not required for setting up the desalination plant, I grant them liberty to move the appropriate authority in the Government by filing an appeal challenging the orders impugned in the respective writ petitions. If such appeals are filed within a period of three weeks from the date of receipt of a copy of this order, the same shall be entertained without reference to limitation and disposed of on merits and in accordance with law. Till the said appeals are disposed of by the appellate authority, the respective writ petitioners shall not be dispossessed. I grant this indulgence for two reasons:-

(I) The impugned order proceeds on the premise that the condition subject to which the allotment was made had been breached. It is seen that the allotment order was made way back in the year 1972. Whether the condition was complied with or not ie., whether coconut cultivation was undertaken or not cannot be tested at this point of time.

(II) Secondly, similarly placed persons in Naripaiyur Village had been granted patta.



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9. In this view of the matter, the said writ petitioners deserve to be granted some interim protection. That is why, I have held that till the disposal of their appeals, they shall not be dispossessed. This concession will stand vacated, if the appeals are not filed within the aforesaid period of three weeks.

10. These Writ Petitions are disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

06.09.2022

Index : Yes / No
Internet : Yes/ No
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To

- 1.The Principal Secretary,
Department of Revenue,
Secretariat,
Chennai-9.
2. The Commissioner,
Land Administration Department,
2nd Floor, Ezhilagam, Chepauk,
Chennai-05.
- 3.The District Collector,
Ramanathapuram,
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G.R.SWAMINATHAN, J.

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