



W.P.(MD)No.23080 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 24.11.2022

CORAM

THE HONOURABLE Mrs. JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition (MD) No.23080 of 2022

D.Katturaja

.. Petitioner

Versus

1.The District Collector,
Madurai.

2.The Tahsildar,
Melur Taluk,
Madurai District.

3.M.Vaiyapuri

.. Respondents

Prayer:-Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents 1 and 2 to consider the petitioner's representation dated 22.06.2022, within the time frame to be fixed by this Court.

For Petitioner : Mr.C.Selvaraj

For Respondents 1 and 2: Mrs.K.Christy Theboral
Additional Government Pleader

For 3rd Respondent : Mr.M.Kannan



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ORDER

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The petitioner has prayed for issuance of a Writ of Mandamus, directing the respondents 1 and 2 to consider his representation dated 22.06.2022, within a time frame.

2. The case of the petitioner is that, the property comprised in S.No. 596/9B2, measuring an extent of 59 cents, situated at Karungalakudi Village, Melur Taluk, Madurai District, belongs to the third respondent, who was running a Aluminum Factory in the said property, and subsequently, it was closed. While the factory was in operation, one Raja, a labour of the third respondent suffered an injury and therefore, he filed a Petition before the Deputy Commissioner of Labour under the Workmen's Compensation Act, 1923, against the third respondent in W.C.No.7 of 1993 and the Deputy Commissioner of Labour awarded a compensation of Rs.77,993/- together with interest and the total amount payable is Rs.1,09,420/-. After passing the said award, it was referred to the first respondent for recovery of compensation from the third respondent, by invoking the provisions of the Revenue Recovery Act. Subsequently, the second respondent had initiated the recovery proceedings as directed by the first respondent.

3. According to the petitioner, the second respondent had conducted



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petitioner had participated in the said auction and was declared as highest bidder. Subsequently, the petitioner paid Rs.55,315/-, which was 15% of the total amount *i.e.*, Rs.3,68,750/-. The petitioner had also paid the remaining amount to the second respondent. Thereafter, the sale was confirmed by the first respondent on 03.10.2005 and a sale certificate was issued in Form VIII under Section 38 of the Revenue Recovery Act. The Sub-Registrar, Karungalakudi, had effected changes with respect to the sale certificate issued to the petitioner in their Registers on 26.10.2005 and the revenue records were also changed in the name of the petitioner. While so, the third respondent filed a Writ Petition in W.P.(MD)No.10118 of 2005, challenging the order passed by the first respondent. This Court, vide order dated 12.07.2011, quashed the auction sale, as it was in violation of mandatory provisions of law and accordingly, allowed the Writ Petition. Challenging the said order, the petitioner preferred an appeal in W.A.(MD)No.324 of 2013 before the Division Bench of this Court and the same was dismissed, vide judgment dated 12.09.2014. Subsequently, the petitioner preferred S.L.P.(C)No.19659 of 2015 and the same was also dismissed, vide order dated 02.12.2021.

4. According to the learned counsel for the petitioner, the auction conducted by the first respondent alone was set aside and this Court did not take any decision about the possession and right of the first respondent.



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Hence, the possession and the right of the first respondent remains the same so far. Therefore, the first respondent can continue the auction process freshly by adopting the procedures. Further, the petitioner had developed the land with huge cost and his possession should not be disturbed in any manner without suitable orders being passed by the appropriate forum. Since the Patta and other revenue records in respect of the aforesaid property stands in the name of the petitioner so far, the first respondent may adopt a method of outright purchase system and again, sell the property in his favour and the petitioner is ready to pay the present market value of the property as per the Government guidelines.

5. Further, according to the learned counsel for the petitioner, the third respondent is trying to forcibly dispossess the petitioner's legal possession by illegal means, which is unwarranted. Hence, the petitioner made a representation dated 22.06.2022, to the respondents 1 and 2, requesting for outright purchase of the above said land in his favour. Since the same has not been considered so far, the petitioner has approached this Court by way of filing the present Writ Petition for the relief stated supra.

6. The learned Additional Government Pleader appearing for the respondents 1 and 2, on instructions, submitted that the third respondent filed a



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Writ Petition in W.P.(MD)No.10118 of 2005, challenging the order passed by the first respondent, auctioning the land in question. This Court, vide order dated 12.07.2011, quashed the auction sale, as it was in violation of mandatory provisions of law and accordingly, allowed the Writ Petition. Challenging the said order, the petitioner preferred an appeal in W.A.(MD)No.324 of 2013 before the Division Bench of this Court and the same was dismissed, vide judgment dated 12.09.2014. Subsequently, the petitioner preferred S.L.P. (C)No.19659 of 2015 and the same was also dismissed, vide order dated 02.12.2021 and therefore, prayed for dismissal of the Writ Petition.

7. The learned counsel appearing for the third respondent submitted that the third respondent had paid the compensation amount to the workman concerned and as on date, no due is available.

8. Heard the learned counsel appearing for the petitioner; the learned Additional Government Pleader appearing for the respondents 1 and 2; and the learned counsel appearing for the third respondent and perused the material available on record.

9. On a perusal of the material available on record, it is seen that already the auction sale itself has been set aside by this Court, vide order dated



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12.07.2011, against which, the petitioner and the first respondent filed writ appeals before the Division Bench of this Court and the same were dismissed, vide judgment dated 12.09.2014. Aggrieved over the same, the petitioner preferred S.L.P. before the Hon'ble Apex Court and same has also been dismissed on 02.12.2021. At this stage, now, the petitioner has come forward with a new plea that the Patta and other revenue records in respect of the said property stands in his name and therefore, the first respondent may adopt a method of outright purchase system and again sell the property in his favour, which cannot be agitated before this Court. Once the auction sale is set aside and the said sale is not valid in the eye of law, the petitioner cannot squat on the said property, claiming that he is the owner of the property. The said attitude of the petitioner is condemnable as he has to hand over the property. According to the learned counsel for the petitioner, now, the petitioner is not in possession of the property. Since the third respondent has also paid the compensation amount to the workman concerned and the auction sale has already been set aside and the same has been confirmed by the Hon'ble Apex Court, the revenue authorities are hereby directed to mutate the said documents in favour of the third respondent and pass appropriate orders in respect of refund of the amount paid by the petitioner.



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10. This Writ Petition is dismissed with the above observation and directions. No costs.

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smn2

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V.BHAVANI SUBBAROYAN, J.

smn2

Order made in
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