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W.P.No.37973 of 2003

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 13.02.2023

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THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.37973 of 2003
and WPMP.No.46106 of 2003

Hindustan Lever Limited
Tea Estates India Division
Devarshola Group Central Office
Devarshola Post 643207,
The Nilgris.

... Petitioner

Vs

- 1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Revenue Department,
Fort St.George,
Chennai – 600 009.
- 2.The State of Tamil Nadu
Rep. by its Secretary,
Adi Dravidar and Tribal Welfare – I Dept.,
Fort St.George,
Chennai – 600 009.
- 3.The Collector of Nilgris,
Ootacamund.
- 4.The District Adi Dravidar Welfare Officer,
Nilgris District, Adi Dravidar Welfare Office,
Ootacamund.



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5. The Executive Officer,
Town Panchayat,
Devarshola, Gudalur Tk.,
Nilgris Dist.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records comprised in the second respondent's G.O.Ms.No.86, Adi Dravidar and Tribal Welfare (TD 1 Dept.) dated 23.06.2003 and the consequential order of the 3rd respondent bearing Reference No.H1/40170/03, dated 21.08.2003 and quash the same and consequently issue a mandamus forbearing the respondents, their men, servants, agents or any one claiming under them from in any manner interfering with the rights of the petitioner in respect of its lands situate at R.S.No.477/1 (Padanthorai), 28 (Padanthorai), 45/2 (Padanthorai), 47/2 (Padanthorai), 49/2 (Padanthorai), 30/2 (Padanthorai), 340/1 (Padanthorai), 431/1 (Cherumulli), 81/2 (Cherumulli), 81/3 (Cherumulli), 114 (Cherumulli).

For Petitioner : Mr.Madhan Babu
for Mr.R.Parthasarathy
For Respondents : Mr.Ramanlaal
Additional Advocate General
assisted by Mr.M.Muthusamy
Government Advocate

ORDER

Both learned counsel are in agreement that appeals bearing C.M.A.Nos.1 of 2020 and 1 of 2022, pending on the file of District-cum-Chief Judicial Magsitrate, Nilgiris, must be conducted together, since they arise out of a single order dated 17.10.2019 passed by the Settlement Officer/District Revenue Officer, Gudalur, Nilgiris District.

2. A detailed status report dated 02.02.2023 has been filed by the petitioner enclosing three annexures, viz., i) order of the Settlement Officer



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dated 17.10.2019, ii) Status and grounds in C.M.A.No.1 of 2020 before the

District cum Chief Judicial Magistrate, Nilgiris, which reveals that the matter is pending at the stage of arguments and iii) Status and grounds in C.M.A.No.1 of 2022 before the District cum Chief Judicial Magistrate, Nilgiris. Evidently, C.M.A.No.1 of 2022 is at a very preliminary stage as records of the lower Court are yet awaited.

3. Though a preliminary objection was raised by Mr.Ramanlal to state that it may not be necessary that the appeals are to be clubbed, seeing as the appellant in C.M.A.No.1 of 2022 is Tea Estates India Limited and not the petitioner, upon noting that the petitioner is arrayed as respondent No.10 in that appeal and also noting that the order of the Settlement Officer is a consolidated order touching upon the ownership of 7246.90 acres, which have subsequently fallen for assessment in two separate orders on account of demergers and mergers qua the parties, leading to two separate appeals, he would accede to the position that the appeals must be consolidated and heard.

4. To this end, he has filed a memo dated 13.02.2023 reading thus:

It is most humbly submitted that the Respondents 1 to 4 does not have any objection for clubbing together C.M.A. 1 of 2020 and C.M.A. 1 of 2022 as it is between the same parties and issues involved is identical. This respondent require 8 months time for completing the trial in C.M.A.1 of 2020 and C.M.A.1 of 2022.'



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5. The time frame for consolidation and hearing of appeals is fixed as eight (8) months from date of receipt of a copy of this order.

6. The impugned Government Order is dated 23.06.2003 and the consequential order is dated 21.08.2003. Though initially, the petitioner was granted an interim order of *status quo* on 24.12.2003, the same came to be vacated vide order dated 29.03.2004 by Justice A.Kulasekaran in the following terms:

"Heard both sides. Mr. Satish Parasaran, learned counsel appearing for the petitioner submitted that respondents have proposed to construct 40 houses in the land in which the petitioner is in possession and occupation. The Petitioner also approached the Government to give patta in favour of the petitioner. While things are such, the respondents/Government are attempting to construct 40 houses for inhabitants. It is also further submitted that the said proposal of the Government would amount to violation of the order passed by the Hon'ble Supreme Court of India.

2. Mr. Muthukumarasamy, learned Additional Advocate General appearing for the respondents/Government submitted that in Kaundankolli Village, Gudalur Taluk, there are about 54 Paniya families have been residing for about 400 years. The Central Government has extended aid for replacing the thatched sheds into permanent small houses. In and by the said scheme, Rs.25 lakhs was allotted for construction of small houses. The Government, after physically verifying the number of families and started to construct 40 houses after removing the thatched sheds. It is further submitted by the learned Additional Advocate General that the said construction would not amount to issuance of patta or regularising the encroachment. Indeed, the learned Additional Advocate General submitted that till the disposal of the case by the Hon'ble Supreme Court, no Patta will be



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assigned to the said persons nor they regularise any encroachment. The said undertaking given by the learned Additional Advocate General recorded.

3. In view of the fact that the Government have already commenced construction by using hollow bricks in the place where thatched sheds were available and the construction is about to be over, the order of Status-quo granted by this Court on 24-12-2003 not required to be continued as the balance of convenience is in favour of the Government. Hence, this petition is dismissed."

7. Hence much water is expected to have flown under the bridge in the interim two decades. Neither of the parties are able to apprise the Court on the present situation as of now. Order dated 28.03.2004, passed nearly two decades ago, has categorically recorded the fact that the construction of the houses was almost complete. That order has admittedly attained finality.

8. This Court is thus of the considered view that there would be nothing that survives in the present challenge. If at all the petitioner believes that it is entitled to any interim protection qua the position that prevails now, it may approach the Tribunal and obtain the same, in accordance with law.

9. This Writ Petition is dismissed. No costs. Connected Miscellaneous Petition is also closed.

13.02.2023

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Index : Yes / No

Speaking Order

Neutral Citation: Yes



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Dr.ANITA SUMANTH, J.

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To

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