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WP Nos.4717, 4718 and 5648 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18-07-2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP Nos.4717, 4718 and 5648 of 2015

And

MP Nos.1, 1, 2, 2, 2 and 3 of 2015

And

WMP Nos.34968 and 34969 of 2016

M/s.Chettinad Cement Corporation Ltd.,
Ariyalur-621 707, Represented by its
Company Secretary Mr.S.Hariharan,
Having Registered Office at
Rani Seethai Hall Building,
No.603, Anna Salai,
Chennai-600 006.

... Petitioner in WPs 4717 and 4718
of 2015

The Ramco Cement Ltd.,
formerly known as Madras Cements Ltd.,
Represented by its Authorised Signatory,
Mr.T.Mathivanan, Deputy General Manager-Legal,
Ariyalur-621 707.

... Petitioner in WP 5648/2015

Vs.



State of Tamil Nadu

Represented by Principal Secretary to the Government,

Department of Revenue,

Fort St. George,

Chennai-600 009.

.. R-1 in all WPs

The Sub Collector,

Ariyalur,

Ariyalur District.

.. R-2 in all WPs

The District Collector,

Ariyalur,

Collectorate,

Ariyalur District.

.. R-3 in all WPs

The Special Commissioner and Commissioner

of Land Administration,

Chepauk,

Chennai-600 005.

.. R-4 in all WPs

The Tahsildar,

Ariyalur,

Ariyalur District.

.. R-5 in all WPs

The Revenue Divisional Officer,

Ariyalur,

Ariyalur District.

.. R-6 in all WPs

The Commissioner of Geology and Mining,

Guindy,

Chennai-600 032.

.. R-7 in all WPs

[R-7 suo motu impleaded vide order of
Court dated 06.06.2023 made in
WP Nos.4717, 4718 and 5648 of 2015]



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WP No.4717 of 2015 is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the second respondent comprised in impugned proceeding dated 10.02.2015, bearing No.Na.Ka.A4/2759/2013, in respect of the abovementioned lands in Reddipalayam and Nagamangalam Villages and any consequential demand and quash the same as illegal, arbitrary, unconstitutional.

WP No.4718 of 2015 is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the second respondent comprised in impugned proceeding dated 10.02.2015, bearing No.Na.Ka.A4/2759/2013, in respect of the abovementioned lands in Reddipalayam and Nagamangalam Villages and any consequential demand and quash the same as illegal, arbitrary, unconstitutional.

WP No.5648 of 2015 is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the second respondent comprised in impugned proceeding dated 10.02.2015, bearing No.Na.Ka.A4/1143/2012 and any consequential demand and quash the same as illegal, arbitrary, unconstitutional.

For Petitioner in WPs : Mr.M.S.Krishnan,
4717 and 4718/2015 Senior Counsel for Mr.T.Balaji.



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For Petitioner in
WP 5648/2015 : Mr.Rahul Balaji

For Respondents in all
WPs : Mr.J.Ravindran,
Additional Advocate General
Assisted by Mr.D.Ravichander,
Special Government Pleader.

COMMON ORDER

The writ petitions on hand have been instituted challenging the validity of the order passed by the Sub Collector, Ariyalur resuming the land with a direction to reclassify the subject land as Government Poramboke 'Tharisu'.

2. The writ petitioners have challenged the order mainly on the ground that the Sub Collector, Ariyalur is not competent to resume the Government land under the provisions of the Revenue Standing Orders. That apart, the records pertaining to the assignment and subsequent mutations effected in revenue records were not produced before the Sub Collector nor adequate opportunities were provided to the petitioners to establish their case. Thus, the petitioners have contended that the order



impugned cannot stand the scrutiny of law.

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3. The learned Senior Counsel appearing on behalf of the petitioner in WP Nos.4717 and 4718 of 2015 and the learned counsel appearing on behalf of the petitioner in WP 5648 of 2015 have contended that the petitioners are the bona fide purchasers of the subject property more fully described in the respective writ petitions and they possess the title documents and other records to establish their case.

4. Contrarily, the Government has no records to produce nor records were produced before the Authority for the purpose of establishing the assignments or the conditions stipulated for assigning such lands in favour of the landless poor Adi Dravidar Community people.

5. In the absence of any adjudication, the order passed by the Sub Collector is untenable. Though reasons are stated, such reasons which all are administrative in nature, cannot be sustained, since the petitioners claim title over the property.



6. The learned Additional Advocate General appearing on behalf of the State mainly raised that the Government property has been illegally sold by the Original Assignees in violation of the terms and conditions stipulated in the assignment. Any such illegal sale would not binding on the Government and therefore, the Sub Collector, in the rank of Revenue Divisional Officer, is empowered to resume the Government land in the direction to reclassify the subject land as Government Poramboke 'Tharisu'.

7. It is contended that the representations/explanations given by the petitioners are considered by the Authorities Competent, who passed the order. When the lands belonged to the Government were illegally transacted/transferred, the petitioners cannot claim any right or title over the property. The Sub Collector is in the rank of Revenue Divisional Officer and therefore is competent under the Revenue Standing Orders to pass such orders and thus there is no infirmity in respect of the jurisdiction exercised by the Sub Collector in the impugned order.



8. The learned Additional Advocate General, appearing on behalf of the respondents, drew the attention of this Court with reference to the statement made by M/s.Ramco Cements Limited in WP No.5648 of 2015, wherein they have stated as follows:-

“4. It is submitted that thorough enquiry was carried out with the vendors to ascertain the ancestry and inheritance of the properties. The purchases were made after exhaustive enquiry with the vendors. All the other credentials such as Adangal extracts and Chitta were in the name of the pattadars. We have not purchased the properties directly from the pattadars whose names were there in 1987 UDR. Instead we have purchased from vendees who have purchased from the pattadars. The property had been transacted in between two to three individuals and at the entire instance, the patta has been mutated and transferred in their names by the Revenue Authorities without any objection.”

9. Relying on the above statement made by the writ petitioner-Ramco Cements Limited, the learned Additional Advocate General,



reiterated that the petitioners were aware of the fact that the subject land was assigned in favour of the poor landless Adi Dravidar Community people. Therefore, they cannot now claim as if they are the bona fide purchasers of the property.

10. The petitioners may be the subsequent purchasers of the property. However, the transfer of property became illegal and thus the petitioners are now estopped from claiming that they are the bonafide purchasers of the subject property.

11. The power of the Judicial Review of the High Court under Article 226 of the Constitution of India is to ensure that the processes through which a decision has been taken by the Competent Authorities in consonance with the Statutes and the Rules in force, but not the decision itself.

12. The scope of Judicial Review under Article 226 of the Constitution of India, if expanded would cause prejudice to either of the parties to have effective adjudication of the material facts based on the



documents and evidences.

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13. The High Court cannot conduct a roving enquiry in respect of title disputes between the parties. Mere production of certain records before the High Court in a title dispute would be insufficient to form a final opinion. In such circumstances, the parties are to be relegated to the Competent Civil Court of Law for the purpose of establishing their civil rights and to resolve the issues.

14. In the present cases, the petitioners claim that they are the absolute owners of the subject property. Per contra, the Government says that the land belonged to the Government, which was assigned to the poor homeless people from Adi Dravidar Community and it was a conditional assignment and the conditions were violated by those Assignees.

15. In the context of the transaction and the rights of the Government to resume the lands, are to be traced out with reference to the Revenue Standing Orders and the Resuming Authority under RSO 15 is the Tahsildar, if the land is non-valuable, the Revenue Divisional Officer if the



land is valuable and the Commissioner of Land Administration/Government for the land assigned prior to 1973.

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16. In the present cases, the respondents have stated that the subject land was assigned prior to the year 1973 and therefore, the Commissioner of Land Administration/Government will be the appropriate Authority for resumption of land by conducting an adjudication.

17. The learned Senior Counsel appearing on behalf of the petitioner in WP Nos.4717 and 4718 of 2015 and the learned counsel appearing on behalf of the petitioner in WP No.5648 of 2015 have made a submission that they have no objection for adjudication of the issues by the Commissioner of Land Administration/Government.

18. The learned Additional Advocate General appearing on behalf of the respondents made a submission that the petitioners have to establish the validity of their sale before the Competent Authorities.



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19. This being the factum and submissions made, this Court is inclined to relegate the parties to the Commissioner of Land Administration for an effective adjudication and to resolve the issues on merits and in accordance with law.

20. The petitioners are at liberty to submit their respective applications/appeals along with the documents, if any, to the Commissioner of Land Administration, Chepauk, Chennai, within a period of three weeks from the date of receipt of a copy of this order. On receipt of any such applications/appeals, if any, the Commissioner of Land Administration, is directed to fix the date for enquiry and accordingly issue summons to the parties concerned and conduct an enquiry by affording an opportunity to all the parties concerned. Unnecessary adjournments on flimsy grounds are to be avoided. In the event of any non-cooperation on the side of the parties, the Commissioner shall record the same and proceed with the appeal and pass orders.



21. The learned Additional Advocate General, appearing on behalf of the respondents, raised an objection by stating that the contention of the petitioners that the assignment was made prior to the year 1973 is incorrect. However, the Commissioner of Land Administration shall verify all such records and take an appropriate decision.

22. If at all the petitioners have not chosen to file any applications/appeals, pursuant to the liberty granted by this Court in the present writ petitions, the respondents are at liberty to initiate all further actions in the manner known to law.

23. The Commissioner of Land Administration is empowered to adjudicate the issues afresh by verifying documents to be produced by the petitioners as well as by the Department and thereafter form final opinion and pass orders on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.



24. With the above observations, all the writ petitions stand disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

18-07-2023

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn

To

1.The Principal Secretary to the Government,
State of Tamil Nadu
Department of Revenue,
Fort St. George,
Chennai-600 009.

2.The Sub Collector,
Ariyalur,
Ariyalur District.

3.The District Collector,
Ariyalur,
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4.The Special Commissioner and Commissioner
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S.M.SUBRAMANIAM, J.

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