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W.P.No.17804 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.17804 of 2023
and
W.M.P.No.16918 of 2023

Sebastian Raj

... Petitioner

Vs.

1.The District Collector,
Tiruppur District,
Tiruppur.

2.The District Revenue Officer,
Tiruppur District,
Tiruppur.

3.The Revenue Divisional Officer,
Tiruppur District,
Tiruppur.

4.The Tahsildar,
Tiruppur North Taluk, Tiruppur North,
Tiruppur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the entire records relating to the Impugned Order passed by the 1st respondent in his



Proceedings Na.Ka.No.6300/2022/B1, dated 26.09.2022 and quash the same and consequently directing the respondents to issue assignment patta to the petitioner's house and land situated in S.Nos.658/32, 33 and 34, Thottipalayam Village, Tiruppur Taluk, Coimbatore District (now Tiruppur District), (Old Ward K, New Ward – H, Old Block No.48, New Block No.218, Old T.S.Nos.17/2 and 22, New T.S.Nos.3/1 and 5/2) to the extent of 2,314 sq.ft by receiving Rs.502/- per sq.ft.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.T.Arunkumar,
Additional Government Pleader

ORDER

The order passed by the District Collector, Tiruppur in proceedings dated 26.09.2022 fixing the land cost to be paid by the petitioner in respect of the land assigned in favour of the petitioner with a condition to pay the cost is under challenge in the present writ petition.

2. The Government of Tamil Nadu issued G.O.Ms.No.116, Revenue Department dated 05.03.2004 for issuing assignment of land to the 22 Ex-Servicemen with a condition to recover the market value of Rs.200.49/- per Sq.ft along with the interest at the rate of 12% or the market value of the



property, which is ever is higher. Though the Government order was passed in the year 2004, the Ex-servicemen could not pay the land cost as stipulated in the assignment order and they continued to be in possession of the land without paying land cost.

3. Earlier the writ petitioner filed W.P.No.5697 of 2020 and this Court passed passed an order on 24.01.2022, directing the first respondent therein to give an opportunity to the petitioner and thereafter pass orders on merits in accordance with law within a period of eight weeks.

4. Pursuant to the orders passed by this Court in the above writ petition, the impugned order has been passed by the District Collector after conducting an elaborate adjudication of the issues raised by the petitioner.

5. The learned counsel for the petitioner mainly contended that the petitioner is bound to pay the land cost. However, the rate fixed by the District Collector is improper and the Collector has fixed the market value of the land and therefore, the petitioner is constrained to move the present writ petition.



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6. The learned counsel for the petitioner reiterated that fixing market value is improper, since the petitioner is an Ex-Serviceman and the assignment itself was granted by way of concession to the Ex-Serviceman and therefore, the land cost is to be fixed with reference to the assignment made and not in respect of the current market value of the property. It is further contended that the petitioner is ready and willing to pay the guideline value fixed by the Government as on today.

7. The learned Additional Government Pleader appearing on behalf of the respondents raised an objection by stating that the petitioner is in occupation of the Government land without paying the land cost as per the Government order issued in G.O.Ms.No.116, Revenue Department dated 05.03.2004. The conditional assignment granted in favour of the petitioner has not been complied with. The petitioner has failed to pay the land cost for the past several years and is in illegal occupation of the Government land assigned in his favour in the year 2004. Therefore, the petitioner is not entitled to claim any concession or otherwise at this length of time. The value of the property has been considered by the District Collector and accordingly,



the petitioner was directed to pay the land cost as stipulated in the Government order considering the market value of the land. The conditional assignment imposed was that the petitioner has to pay the guideline value fixed by the Government in its order or the incremental value at the rate of 12% per annum, which ever is higher. Therefore, the District Collector has calculated the land cost in accordance with the Government order and accordingly, passed the impugned order.

8. Therefore, this Court is of the considered opinion that now the petitioner cannot turn around and claim that he will pay the old cost as fixed by the Government in the year 2004. Since the petitioner is a defaulter, he is not entitled to claim any leniency or otherwise from the hands of this Court.

9. Even during the period of his illegal occupation, the petitioner has not paid any land cost or rent or otherwise. However, he is liable to pay the land cost even at that point of time. The Government has considered the fact that he is an Ex-Serviceman and not initiated any action to resume the land for many years. When the Government insisted the petitioner to pay the land cost, he had earlier filed writ petition and after passing an order by the



District Collector, now he has filed the present writ petition.

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10. The petitioner has accepted the Government order issued in the year 2004 in G.O.Ms.No.116 dated 05.03.2004. It is not in dispute that the assignment was a conditional one. Once the Government land has been handed over to the writ petitioner, he cannot turn around and claim that he cannot pay the land cost as stipulated by the Government.

11. The petitioner cannot approbate and reprobate after a length of so many years and after enjoying the Government land without paying the land cost. Thus, the petitioner is not entitled for any leniency from the hands of this Court. It is a concession granted by the Government to the petitioner in view of the fact that his father was an Ex-Serviceman, which itself is an additional concession granted by the Government and therefore, the petitioner cannot expect that the Government will give any further concession by reducing the land cost, which will cause financial loss to the State Exchequer.



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12. With these observations, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

19.06.2023

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes

To

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S.M.SUBRAMANIAM, J.

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