



W.P.No.13882 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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ORDERS RESERVED ON : 09.11.2023

ORDERS PRONOUNCED ON : 27.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.13882 of 2017

E.Rajakumar

...Petitioner

-Vs-

- 1.The Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Fort St George,
Chennai - 600 009.
- 2.The Commissioner
Department of Adi Dravidar and Tribal Welfare,
Chepauk,
Chennai - 600 005.
- 3.The District Collector,
Office of the District Collector,
Tiruvannamalai.
- 4.The Special Tahsildar ADW,
Adi Dravidar Welfare Department,
Polur,
Thiruvannamalai District.
- 5.The District Welfare Officer ADW,
Adi Dravidar Welfare Department,
Thiruvannamalai District.



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6.The Tahsildar,
Polur Taluk,
Thiruvannamalai District.

7.Mrs.Ponnammal

...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents 1 to 6 to restore possession of the lands measuring acre 0.30 cents of S.No.57/1 of Appedu Village, Chetpet Taluk, Thiruvannamalai District, to all the legal heirs of petitioner's mother late Mrs.Saroja Ammal, wife of late Ethiraj or to acquire the same under the Right to Fair Compensation and Transparency in Land Acquisition and Resettlement Act, 2013 by providing proper compensation in accordance with law and pass such orders.

For Petitioner	: Mr.T.Sundara Rajan
For R1 to R6	: Mr.P.Gurunathan Additional Government Pleader
R7	: Tapal returned

ORDER

This Writ Petition is filed by the petitioner for issuance of a writ of mandamus directing respondents 1 to 6 to restore possession of the lands, measuring an extent of 0.30 cents in S.No,57/1 of Appedu Village, Chetpet Taluk, Thiruvannamalai District, to all the legal heirs of the petitioner's mother. The mother of the petitioner, late Mrs.Saroja Ammal, w/o. late



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Ethiraj, or to acquire the above said land under the Right to Fair Compensation and Transparency in Land Acquisition and Resettlement Act, 2013, by providing proper compensation in accordance with law.

2. The case of the petitioner is that the subject matter of the property originally belonged to Unnamulai Ammal. The mother of the petitioner purchased the said land from Unnamulai Ammal under the registered sale deed dated 25.02.1972. His mother died on 03.07.2007, leaving behind the petitioner, two other sons and two daughters. After the death of the mother of the petitioner, the 4th respondent purchased the subject matter of the property from the 7th respondent under private negotiation and they evaded house plots and allotted them to the beneficiaries of Adi Dravidar Community. Later on, the brother of the petitioner approached respondents 4 and 5 and told them that the land was purchased from the 7th respondent. The brother of the petitioner informed them that the subject matter of the property belonged to their mother and their mother purchased it from the original owner, Unnamulai Ammal on 25.02.1972 and she died on 03.07.2007. Therefore, the petitioner and his brothers and sisters are legal heirs, and the property was neither acquired from the mother of the petitioner, nor from the legal heirs of the mother of the petitioner. It was



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obtained by private negotiation with the 7th respondent. The 7th respondent has no right over the property and therefore, the land has to be returned to them. Otherwise, they have to acquire the land in due process of law and pay the compensation. Since the 4th and 5th respondents had not given proper response, the petitioner had filed this present writ petition.

3. The case of respondents 1 to 3 is that the following lands have been purchased by the Government on 31.03.1999 under private negotiation to grant house-site Pattas to Adi Dravidar at Appedu Village, Polur Taluk from Ponnammal w/o.Murugesan, the 7th respondent herein, for a consideration of Rs.68,400/-.

Polur Taluk, Appedu Village:-

S.No.57/1 – 0.61.0 Hectre/1.51 acre

S.No.57/2 – 0.00.5 Hectre/0.01 acrer

Total 0.61.5 1.52

The sale document has been registered with the SRO, Chetpet, on 31.03.1999 under Registration No.375/1999. The land was taken possession on 31.03.1999 and HS Pattas have been issued on 30.04.1999 to 35 beneficiaries. This has been duly notified in the Thiruvannamalai



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District, Gazette for the month of February, 2005.

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4. The learned Additional Government Pleader appearing for respondents 1 to 6 further submitted that the 7th respondent has purchased an extent of 1.21 acres of land at S.No.57/1 or Appedu Village from one Ratha Ammal w/o.A.Nagapushanam (1) and her son Ramados S/o.A.Nagapushanam (2) of Thathanur Village, H/o.Ganasoodamani Village, Polur Taluk, on 23.01.1995. However, the 4th respondent noticed that the entire 1.52 acres of land at S.No.57/1 and S.No.57/2 were under the possession and enjoyment of the 7th respondent. Hence, the entire lands have been purchased by the 7th respondent, as stated above. The said Ratha Ammal also gave a statement that the land of 30 cents in S.No.57/1 may be acquired for giving free house-site and she also consented for private negotiation. After 18 years, the petitioner claims right over 0.30 acres out of 1.52 acres of land purchased on 31.03.1999. Therefore, the contention of the petitioner that an extent of 0.30 cents at S.No.57/1 of Appedu Village was purchased by the mother of the petitioner and it has to be proved by the petitioner and the petitioner has to establish his right and title over the land in a Competent Civil Court.



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5. Learned counsel for the writ petitioner submitted that the mother of the writ petitioner purchased the subject matter of the property under the registered sale deed dated 25.02.1972, from the original owner, one Unnamulai Ammal and the mother of the petitioner died on 03.07.2007. The petitioner's brother was working as a Deputy Superintendent of Police and served in various places. After retiring from his service, he intended to take up agricultural activities on the subject matter of the property and other property of the father and mother. When he inspected the property, he came to know that there were constructions in the said lands, which belonged to his mother. On enquiry, they came to know that the Adi Dravidar Welfare Department of Polur, Thiruvannamalai District, acquired the said lands, plotted the same and allotted part of the lands to the Adi Dravidars. Her mother neither received any notice, nor the petitioner and the other legal heirs of his mother also never received any notice. He came to know that the original owner, Unnamulai Ammal, was the owner of the land, measuring a total extent of 1 acre 51 cents in S.No.57/1 and the 7th respondent purchased 1 acre 21 cents from the original owner. Therefore, she is entitled to. The 7th respondent was entitled to possession of 1 acre 21 cents alone. The remaining 30 cents were purchased by the mother of the writ petitioner under the registered sale deed dated 25.02.1972, whereas,



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the 4th and 5th respondents privately purchased the lands from the 7th respondent, in which, the 7th respondent is not the owner of the property.

Therefore, the 4th and 5th respondents have not purchased it from the real owner of the property and they purchased it from the wrongful person who is not the owner of the property. Therefore, the sale made by the 7th respondent in respect of the subject matter of the property in favour of respondents 4 and 5, is not binding on the petitioner. Since the petitioner's mother is the owner of the property, neither the mother, nor the legal heirs of the mother of the petitioner were served with the notice and the land was not acquired in due process of law. Therefore, the land acquisition regarding the subject matter of the property is not valid. Therefore, the subject matter of land of 30 cents in S.No.57/1 covered under sale deed 25.02.1972 in favour of his mother, has to be restored to the petitioner and his other legal heirs. In this case, the respondents stated that they had already allotted possession to the members of the Community and were taken in possession. They should pay possession under the new Act. The petitioner and his other legal heirs made representation before the respondents, but they have neither returned the land nor paid the fair compensation. Therefore, the petitioner approached this Court.



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6. Learned counsel for the official respondents would submit that the subject land of the petitioner in S.No.57/1 of Appedu Village, Polur Taluk, was purchased by the Government on 31.03.1999 under private negotiation to grant house-site Pattas to Adi Dravidar at Appedu Village Polur, Taluk from one Ponnammal, who is the 7th respondent herein, for consideration of Rs.68,400/-. The said document was registered on the file of the SRO, Chetpet, on 31.03.1999 under Doc.No.375/1999. The land was taken possession on 31.03.1999 itself and house-site Pattas was also issued on 30.04.1999 to 35 beneficiaries. The same was published in the District Gazette of Thiruvannamalai District in the month of February, 2005 itself. Even during the lifetime of the mother of the petitioner, the 4th respondent, while having negotiations with the 7th respondent, noticed that the entire 1 acre 52 cents in S.No.57/1 and S.No.57/2 were in the possession and enjoyment of the 7th respondent. Therefore, the entire land was purchased by the 4th respondent. The vendor of the 7th respondent also gave a statement that the land was 30 cents in S.No.57/1. The vendors of the petitioner expressed concerns about giving the land for the house-site to the Adi Dravidars and also consented for private negotiations. The negotiation was completed, and entered into document on 31.03.1999, and also converted into house-site, and Pattas were given to 35 beneficiaries.



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They also returned to the house-site and constructed the house, and they are in possession of the property. After 17 years, the petitioner has come forward with this writ petition. The petitioner is not entitled to the relief sought for in this writ petition.

7. The case of the petitioner is the subject matter of the land of an extent of 30 cents in S.No.57/1 of the Appedu Village, Polur Taluk, Thiruvannamalai District, originally belonged to one Unnamulai Ammal with a larger extent. The mother of the petitioner purchased the subject matter of the land of 30 cents in S.No.57/1 of the said village under the registered sale deed dated 25.02.1972 and thereafter, the mother died on 03.07.2007. After death, the petitioner's brother went to see the land and he came to know that in the said property some of them had constructed houses. When he approached, he came to know that the 4th respondent made land acquisitions by private negotiation with the 7th respondent and allotted it to the Adi Dravidars. They had constructed house and no notice was received by the mother of the petitioner or by the legal heirs of the mother of the petitioner regarding land acquisition. The land acquisition was not made by due process of law and compensation was also not given to the mother of the petitioner. Therefore, the land acquisition regarding



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the subject matter of the property is not valid and the land has to be returned to them. Otherwise, the claim of the petitioner is bound by limitation. In this case, the beneficiaries already occupied the property and constructed the house. Therefore, fair compensation has to be passed.

8. The case of the official respondents, in order to provide house-site to the Adi Dravidars, they acquired the subject matter of the land by private negotiation with the 7th respondent, who was in possession of the property. At that time, they also purchased the said land for valuable consideration and Pattas was also granted in favour of the beneficiaries. The beneficiaries have taken and constructed their house. Due to the lapse of time, the petitioner is not entitled to the relief sought for.

9. Admittedly, it is seen from the records that there was a registered sale deed dated 25.02.1972, in favour of the mother of the petitioner and the mother of the petitioner died on 03.07.2007, whereas, the land was purchased by the 4th respondent from the 7th respondent by private negotiation on 31.03.1999 itself. The petitioner has contended that the land acquisition was not made under due process of law or that there was no private negotiation with the real owner, the mother of the petitioner.



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Except the sale deed in favour of the mother, the petitioner has not

produced any other materials on the date of the sale deed in favour of the

Government executed by the 7th respondent on 31.03.1999. The mother of

the petitioner was in possession of the property. Admittedly, the mother

died only in the year of 2007 and even for 8 years, she has not taken any

steps. It is seen from the counter affidavit and also in the document

produced by the respondents, that the sale deed between the Government

and the 7th respondent had taken place on 31.03.1999 under the registered

sale deed and Property was also divided into house plots and Pattas were

also granted to 35 beneficiaries and the same was also notified in the

District Gazette in the year of 2005. During the lifetime of the mother of

the petitioner, there was no objection, either from the mother of the

petitioner or from the petitioner. When the 7th respondent and one Ratha

Ammal gave consent for private negotiation and they stated they were in

possession of the property. The petitioner also did not produce the

Revenue Records registered in the name of the mother of the petitioner.

However, the document in favour of the Government had taken place on

31.03.1999. Admittedly, the possession was also taken on the same day.

Subsequently, the land was divided into house plots and allotted to the

beneficiaries. The same was also notified in the public District Gazette in



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the year of 2005 itself. Therefore, from 1999 till the filing of the writ petition, the petitioner was not in possession of the property and the beneficiaries were only in possession of the property.

10. The writ petition is filed only in the year of 2017, whereas the document took place on 1999 and the Gazette notification also took place in the year of 2005. The beneficiaries were in possession of the property more than the statutory period. Therefore, the writ petition is liable to be dismissed.

11. Accordingly, the writ petition stands dismissed on the ground of delay and laches. No costs.

27.11.2023

cda

Index : Yes/No

Speaking/Non-speaking order

Neutral Citation : Yes/No



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To

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Adi Dravidar and Tribal Welfare Department,
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- 6.The Tahsildar,
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Thiruvannamalai District.



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P.VELMURUGAN, J.,

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**Order in
W.P.No.13882 of 2017**

Order pronounced on 27.11.2023