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W.P.(MD)NO.665 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.02.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.665 of 2023 and
W.M.P.(MD)No.672 of 2023

1. S.Panjavarnam
2. S.Manimurugan
3. S.Susila
4. K.Ramila
5. S.Krishnadevi
6. K.Kanagavalli
7. V.Meenakshi
8. T.Annalakshmi
9. R.R.Durgadevi
10. K.Girija
11. M.Savithri
12. C.Santhi
13. T.N.Pathmasri
14. K.Selvi
15. V.Saraswathy
16. M.Dhanalakshmi



17. K.A.Prema

18. M.Mahalakshmi

19. N.K.Vijayalakshmi

20. J.Saroja

21. N.K.Gunavathy

22. V.Ayyammal

23. M.Rajeshwari

24. R.Parameshwari

25. K.Ramesh

26. K.Umamaheshwari

27. S.S.Indumathy

28. J.A.Radhika

29. K.Azhagesan

30. S.Rajeshwar

31. T.Haritha

32. R.Amutha

33. T.Murugesan

34. R.Ramuthai

35. M.Jeyalakshmi

36. R.B.Ayesha

37. V.Pushpavalli



38. R.Senthilrajan

39. R.Murugan

40. T.K.Saroja

41. K.G.Lakshmi

42. B.S.Vimala

43. G.R.Chandrasekar

44. G.N.Geetha

45. B.S.Sridevi

46. J.K.Vasanthi

47. R.Ramamoorthy

48. N.Suganya

49. P.Banumathi

50. M.Shenbegavalli

51. S.Chithra Devi

52. Ganga

53. T.S.Kalavathi

54. M.S.Devi

55. K.Backiam

56. R.Indira

57. K.Krishnaveni

58. C.Radha @ Chellammal



59. M.Visalachi

60. R.Muthulakshmi

61. R.A.Lakshmi

62. R.Renuga Devi

63. T.Dhanalakshmi

64. V.Vijaykumar

65. R.Meenakshi

66. V.Ponnumayil

67. K.Jeeva

68. S.Samayamuthu

69. S.Kottamalai

70. R.Jayalakshmi

71. S.Poonkodi

72. R.Velladurai

73. R.Kannan

73. M.Ravindiranath

74. M.Vijaya

76. P.Jayakumar

77. S.Sathyajothi

78. A.Panjavarnam

79. Muniammal



80. M.Manimegalai

81. N.Maruthavalli

82. S.Chellpandiammal

83. M.Papathi

84. D.Muthupandi

85. D.M.Usha

86. R.Panjavarnam

87.E.Chithradevi

88. R.Rajendran

89.M.K.Meenakshi Sundari

90. J.Chellapandi

91. M.Rajeshwari

92. S.Chithradevi

93. K.Dhanalakshmi

94.T.Leelavathi

95. A.Eswari

96. P.Mahalakshmi

97. S.Marishwari

98. S.Latha

99. M.Rajarajeshwari

100.R.Packianathan



101. S.Pandilakshmi

102. K.Padmavathi

103. S.Mahalakshmi

104. M.Pandeeswari

105. S.Kamalarani

106. S.Rajeshwari

107.T.Vasantha

108.S.Tharabanu

109.P.Bhuvaneshwari

110.J.Mahalakshmi

111. P.Packiam

112. B.Maheshwari

113. R.Periyakani

114. L.Thangavel

115. S.Lakshmi Priya

116. G.S.Lalitha

117. C.Kunjaram

118. G.Mahalakshmi

119. M.Karuppayee

120. K.Mareeshwari

121. C.Ganesamoorthy



122. A.Kumarasan

123. P.Pandiammal

124. S.Murugan

125. V.Saravanakumar

126. A.S.Kuppumani

127. R.Krishnan

128. P.M.Pandi

129.V.Salai (Muthuselvi)

130.M.Ramar

131.K.Shanmugalakshmi

132.V.Mahalakshmi

133.B.Dhanalakshmi

134.K.Sarojini

135. M.Amutha

136. P.Thangapandi

137. G.Pandiammal

138. S.Subbulakshmi

139. N.Praveena

140. K.Valli

141. A.Karthika

142. S.Subbulakshmi



143. M.Manimegalai

144. Gnanam

145. P.Pichaiammal

146. K.Krishnammal

147. V.Susila

148. C.Indhirani

149. T.Karupayee

150. G.Mukkammal

151. Kumaran

152. M.Rambabu

153. P.Mani

154. P.Pandiammal

155. Syed Ali Fathima

156. P.Jaya Sri

157. S.Sudha

158. K.Jeyanthi

159. Shanthi

160. R.Meena

161. N.Pavithra

162. Meera

... Petitioners



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Vs.

1. The Government of Tamil Nadu,
Rep. By its Secretary,
Housing Department,
Chennai.
 2. The Commissioner of Land Administration,
Land Administration Department,
2nd Floor, Ezhilagam,
Chepauk, Chennai.
 3. The District Collector,
Madurai District,
Madurai.
 4. The Managing Director,
Tamil Nadu Housing Board,
Anna Salai, Nandhanam,
Chennai.
 5. The Chief Executive Engineer,
Tamil Nadu Housing Board,
Chennai – 600 035.
 6. The Executive Engineer cum Administrative Officer,
Madurai Housing Unit,
Madurai Housing Board,
Avaniyapuram,
Madurai.
 7. The Assistant Secretary (Allotment),
Tamil Nadu Housing Board,
Chennai – 35.
 8. The Revenue Divisional Officer,
Madurai (South),
Madurai.
- ... Respondents



Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 3rd respondent to allot the land to an extent of 2¼ cents after the receipt of the land cost prevailing the market value of the year 1996 in S.No.411/1 at Avaniyapuram Village, Madurai South (Taluk) and execute the sale deed by invoking the provision under the Revenue Standing Order No.15(1)(v) to each petitioners within the time limit that may be stipulated by this Court.

For Petitioners : Mr.D.Selvanayagam

For R-1 to R-3&R-8 : Mrs.S.Jeyapriya,
Government Advocate.

For R-4 to R-7 : Mr.R.Sivakumar,
Standing Counsel.

* * *

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Government Advocate appearing for respondents 1 to 3 and 8 and the learned Standing counsel appearing for respondents 4 to 7.



2. The case of the petitioners is that they are in possession and occupation of the petition mentioned land for a very long number of years and that the third respondent must be directed to allot the lands in their favour to an extent of 2¼ cents each after receipt of market value. The petitioners called upon this Court to direct the third respondent to execute sale deed in their favour after invoking RSO 15(1)(v).

3. The learned counsel appearing for the writ petitioners took me through the averments set out in the writ petition and also the materials enclosed in the typed set of papers. He called upon this Court to grant the relief as prayed for.

4. The learned Standing counsel appearing for the Housing Board submitted that the writ petition is without any merit. He called upon this Court to dismiss the same.

5. I carefully considered the rival contentions and went through the materials on record.



6. It is not as if the petitioners are approaching this Court for the first time. They had already filed W.P.(MD) No.7175 of 2009. The prayer made in the said writ petition is as follows:-

“ Writ petition under Article 226 of the Constitution of India, praying for issuance of a writ of mandamus, directing the respondents to divide the land in S.No.411/1 and 1/1, at Avaniyapuram into housing plots and allot the same to the petitioners, as promised by the respondent on so many occasions.”

7. Vide order dated 31.07.2014, the said writ petition was dismissed. Aggrieved by the same, the petitioners filed W.A.(MD)No.1064 of 2014. The Hon'ble Division Bench vide Order dated 13.06.2017 dismissed the writ appeal in the following terms:-

“ Accordingly, while dismissing the writ appeal, we direct the appellants to submit individual applications to the District Collector for grant of alternate site and if such



applications are submitted by them, the District Collector shall direct the subordinate officers to conduct an enquiry and ascertain the eligibility or otherwise of the appellants for allotment of alternate site, whether they are landless poor etc., and consider the applications on merits in accordance with law within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.”

8. The petitioners filed review application(MD)No.172 of 2018. It was also dismissed on 14.09.2021 in the following terms:-

“ 7. We support such conclusion for the following reasons. It is submitted by the learned senior counsel for the appellants/review petitioners that two counter affidavits were filed by the Housing Board, one dated 28.08.2010 and other dated 28.01.2011. In both the counter



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affidavits, inconsistent stand has been taken in the matter of whether 'B' memos were issued to the petitioners or not. Therefore, it is submitted that when the Housing Board has accepted in one of the counter affidavit that 'B' memos were issued to the petitioners, it goes without saying that their occupation has been recognized as encroachments and they would be entitled to seek for allotment of house sites or atleast alternate site in a different location.

8.Firstly, it needs to be pointed out that issuance of 'B' memos does not in any create any vested right with the petitioners to claim to continue to be in possession of the land which they have encroached and also simultaneously claim to sub divide the land and allot plots to the encroachers. This proposition can never be accepted, as if done, it would putting a premium on a person who had violated the law and



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encroached in the property vested with the Tamil Nadu Housing Board pursuant to the land acquisition done by the Government of Tamil Nadu. That apart, there is no vested right for the petitioners to claim that they shall be allotted alternate site.

9.We are informed by the learned Standing Counsel for the Housing Board that soon after the dismissal of the writ petition, the review petitioners were evicted but thereafter they once again forcibly entered upon the land. It is further stated that even much earlier in the year 1986 the review petitioners were evicted.

10.The learned senior counsel appearing for the petitioners submitted that this was never the stand taken by the Housing Board in their counter affidavits filed in the writ petition.

11.Be that as it may, all the petitioners are to be termed as rank trespassers into



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the Government property and a different terminology by terming them as encroachers would not make things better nor change the legal position in their favour. We find that there is absolutely no error in the judgment and order passed in the writ appeal calling for exercise of review jurisdiction.

12. Accordingly, the review application stands dismissed. No costs."

9. Since a direction had been given for consideration of the petitioners' request, the jurisdictional Tahsildar issued communication dated 21.10.2022 informing the petitioners that if the petitioners applied for allotment at any alternative place, the same will be considered on merits and as per the norms.

10. I am satisfied with the said response. As rightly pointed out by the learned Standing counsel appearing for the Housing Board, the petitioners are trying to re-agitate an



issue which was already decided against them. I cannot deal with the contention anchored on RSO 15(1)(v). It is as follows:-

“ Assignment of land on payment

of value:- In case, the land is assigned, on payment of land value and a condition was imposed in the order of grant, to the effect that the assignee could not dispose of the property, then the land could be resumed, if the land was either not utilised for the purpose for which it was granted, within the specified period or alienated to others, even after utilising the land.”

11. It is true that the Housing Board has not paid the entire amount to the Government. But then, it is for the Government to take a call in the matter as to whether the land should be resumed from the Housing Board. The petitioners have no *locus standi* as such. This Court also will not be justified in directing the Government to invoke the aforesaid RSO. This is because as rightly pointed out by the learned Standing counsel, the Tamil Nadu Housing Board is also a



statutory body and the land has been acquired by it for public purpose. The land has also been handed over legally to the Housing Board.

12. I wanted to know whether the petitioners are still in possession of the same. The materials on record indicate that the land has been acquired for public purposes and handed over to the Housing Board.

13. Unless the petitioners have legal right as such, it is not open to them to maintain a Writ of Mandamus. If the petitioners have come forward before this Court for the first time, it would be a different matter altogether. The petitioners had already lost in three rounds. A settled issue cannot be unsettled at this point of time. The authorities have informed the petitioners that they will be given alternative sites subject to the petitioners fulfilling the relevant norms. In these circumstances, the question of issuing a positive mandamus to the district administration or the Government does not arise at all.



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Consequently, connected miscellaneous petition is closed.

14.02.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes / No
PMU

To:

1. The Secretary,
Housing Department, Chennai.
2. The Commissioner of Land Administration,
Land Administration Department,
2nd Floor, Ezhilagam, Chepauk, Chennai.
3. The District Collector,
Madurai District, Madurai.
4. The Revenue Divisional Officer,
Madurai (South),
Madurai.



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PMU

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