BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.03.2023

CORAM:

THE HON'BLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HON'BLE MRS JUSTICE L.VICTORIA GOWRI

W.A(MD)No.310 of 2023
and
C.M.P(MD)No.3505 of 2023

1.The Commissioner of Land Administration,
Chepauk,
Chennai-600 005.

2.The District Collector,
Trichy District,
Trichy.

3.The District Revenue Officer,
Trichy District,
Trichy.

4.The Revenue Divisional Officer,
Trichy,
Trichy District.

5.The Tahsildar,
Thiruverambur,
Trichy District. :Appellants/Respondents

.vs.

A.Xavier : Respondent/Writ Petitioner

PRAYER: Writ Appeal filed under Clause 15 of the Letter Patent Act, to set aside the order dated 05.08.2022 made in W.P(MD)No.7129 of 2022 thereby allowing this writ appeal.

For Appellants	:Mr.Veera Kathiravan Additional Advocate General Assisted by Mr.A.Baskaran Additional Government Pleader
For Respondent	:Mr.B.Saravanan for D.Kirubakaran

JUDGMENT

(Order of the Court was made by R.SUBRAMANIAN, J.)

The appeal is at the instance of the Government.

2. Challenge is to the order of the writ Court issuing a writ of mandamus directing the respondents to implement the order of the first respondent, dated 29.10.2001 and to issue patta to the petitioner for the land in Survey No.35/10 measuring 4800 sq.ft in Kumbakkudy Village, Trichy District in terms of the proceedings of the third respondent, dated 05.01.2018 within a time frame.

3. This writ petition was resisted on the ground that several years have passed and the value fixed in the year 2009 cannot be the basis for directing the conveyance in the year 2022. The undisputed facts are as follows:-

> Several persons were granted assignment free of cost and since they had sold the property contrary to the terms of assignment in the year 1991. The assignments were cancelled. The cancellation of the assignment in favour of the 1st respondent was challenged before the first respondent herein. Even when the appeal was pending, the purchaser had sold the property to the respondent on 04.03.1998. Finally, the appeal was disposed of by the first appellant on 29.10.2001 upholding the cancellation. However, since construction has been put up in most of the assigned lands, the Commissioner, Land Administration felt that it may not be appropriate to cancel the assignments, therefore, the appeal was disposed of with a direction to the authorities to issue free house-site patta to those purchasers or those of the persons who are in possession, if they are qualified and those

who are not qualified for free housesite patta, the Government to collect the double the market value of the land and grant assignment. Though this order was passed by the Commissioner of Land Administration in the year 2001, the District Revenue Officer did not take any follow up action.

4. Several representations were made to the Commissioner, Land Administration also. The Commissioner, Land Administration by his letter dated 23.02.2007 required the District Collector to do the needful for implementation of the orders passed in the year 2001. After the said nudge by the Commissioner Land Administration, the Revenue Authorities, Trichirappalli District acted and fixed the value of the land on 19.09.2009 at Rs.73/- per sq.ft.

5. Pursuant to the said fixation, letters were obtained from the persons, who were in occupation of the land signifying the acceptance of the market price and their consent for payment of the same. These letters were obtained during February 2013. It appears that thereafter, sanction was sought for from the Commissioner of Land Administration for assignment. The Commissioner of Land Administration by his letter

dated 02.09.2015 informed the District Revenue Officer, Trichirappalli that assignment can be made on the basis of the provisions of the Revenue Standing Orders and wherever the assignment have to be made by the Commissioner, Land Administration, proposals may be sent to the Commissioner, Land Administration.

6. Despite such letters, the assignments were not made and the beneficiaries were made to run from pillar to post. With this background, the District Revenue Officer, Trichirappalli on 05.01.2018 directed the Revenue Tahsildar and Sub-Collector, Trichirappalli to assign the lands upon receipt of two times the market value of the property. List of beneficiaries was also enclosed to that letter.

7. This is received by the District Revenue Officer on 30.01.2019. However, since no assignments were made and people were asked to appear before the Tahsildar on various dates, the petitioner had come up with this petition.

8. The writ Court had rightly concluded that the entire delay had occurred due to the inaction of the revenue officials. Despite the

Commissioner, Land Administration having directed the fixation of market price in the year 2001, the same was done only in the year 2009 after 8 years, that too, after several reminders by the Commissioner of Land Administration. Though the market price was fixed on 19.09.2009, no steps were taken by the District Administration to collect the money from the persons, who were in possession of the land.

9. The learned Additional Advocate General appearing for the appellants would submit that the assignee never attempted to pay the money.

10. A person cannot pay the money in a Government Account just like that. The details of account will have to be informed to the assignee and appropriate orders should be passed. Therefore, the contention of the learned Additional Advocate General that the assignee did not come forward to pay the money cannot be accepted.

11. After having concluded that the Revenue Department alone is responsible for the delay, the learned Judge directed the assignees to pay 4% interest of the amount from 01.09.2009. This order is now under challenge.

12. The learned Additional Advocate General would submit that the rate of interest is very very less. We think that the writ Court was in error directing the assignee to pay the interest and on the other hand, the writ Court should have directed recovery of the loss from the Revenue Officials, who had delayed the matter for over 20 years.

13. Since the assignee is not on appeal, we do not propose to alter the order of the writ Court. Though we find that the order of the Writ Court works certain injustice to the proposed assignees and ignores the misdeeds of the Revenue Department of Trichirappalli District. The writ appeal is dismissed. The District Revenue Officer, Trichirappalli is directed to serve the demand on the respondent indicating the amount to be paid as per the order of the writ Court, for the property in his occupation, giving him a months' time to pay. The competent authority will issue an order of assignment within fifteen days from the date of such payment made by the assignees. If there is any breach of time limit, it will be viewed seriously, unlike in the past. This order will applicable only to those persons who are cited as beneficiaries before the Commissioner of Land Administration.

14. The Writ Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[R.S.M.,J.] & [L.V.G.,J.]
27.03.2023

Index:Yes/No
Internet:Yes/No
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R.SUBRAMANIAN, J.
AND
L.VICTORIA GOWRI, J.

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W.A(MD)No.310 of 2023

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