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W.P.(MD)No.25999 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

and

THE HONOURABLE MR.JUSTICE P.DHANABAL

W.P.(MD)No.25999 of 2023

and

W.M.P.(MD)Nos.22376 to 22378 of 2023

Ram Prabhu

: Petitioner

Vs.

1.The Principle Secretary to Government,
Revenue and Disaster Management Department,
2nd Floor, Old Building, Secretariat,
Chennai – 600 009.

2.The District Collector,
Office of the District Collector,
Thoothukudi District.

3.The Project Officer,
SIPCOT Industrial Complex,
R34M+J5F, Madathur,
Sterlite Industries India Ltd.,
Thoothukudi District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, calling for the records relating to the impugned Government order passed by the 1st



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respondent in his proceedings G.O(MS).No. 293, Revenue and Disaster Management Department, (Land Disposal Wing LD - 5(1) SECTION dated 28.06.2022 so far as the land in possession of the petitioner in Thoothukudi District, Vilathikulam Taluk, Vaippaar I Village, Survey No. 989 to an extent of 7.52.0 hectares and to quash the same and consequently directing the respondents to issue lease to the petitioner within a time frame as may be fixed by this Honourable High Court.

For Petitioner : Mrs.P.Jessi Jeeva Priya
For Respondents : Mr.S.Shaji Bino,
Spl. Govt. Pleader for R1 & R2
Mr.M.Gangatharan for R3
Standing Counsel for SIPCOT

ORDER

Heard both sides.

2. The petitioner is in possession of salt pan lands. Action was taken under the provisions of Tamil Nadu Land Encroachment Act, 1905' [hereinafter referred to as 'the Act' for brevity]. Order under Section 6 of the Act was passed. Aggrieved by the same, the petitioner filed an appeal before the District Collector, Thoothukudi. The appellate authority vide an order dated 03.08.2020 dismissed the appeal. The petitioner therefore filed revision petition before the Government under



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Section 10-A of the Act. The revision was entertained and enquiry was held on 07.10.2022. Final order is yet to be passed. In the meanwhile, the impugned G.O(MS).No.293, Revenue and Disaster Management Department, (Land Disposal Wing LD - 5(1) SECTION dated 28.06.2022 was passed. As a result, the petition-mentioned land along with a larger extent was handed over to SIPCOT. SIPCOT in turn had allotted the petition mentioned land along with other lands in favour of a company called “One Web Communication”. In these circumstances, this writ petition came to be filed.

3. The learned counsel appearing for the petitioner primarily contended that since the revision petition filed by the petitioner would become infructuous, this Court may direct the respondents to maintain *status quo* till the disposal of the revision petition.

4. Though at first blush, the contention of the learned counsel appearing for the petitioner is attractive, we are not persuaded by the same. This is because, the petitioner has no legal right as such. The lands in question are not patta lands. Admittedly, they belong to the Government. The impugned Government Order was passed as early as on 28.06.2022. Challenge has been mounted after a lapse of one year and four months.



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5. The learned counsel appearing for the third respondent pointed out that the petitioner has filed O.S.No.59 of 2023 on the file of District Munsif Court Cum Judicial Magistrate Court, Vilathikulam for permanent injunction against the Government and SIPCOT. Since interim relief was not granted, petitioner has filed this Writ Petition.

6. In the affidavit filed in support of this Writ Petition, there is no reference to the institution of the suit. We consider it as non-disclosure of material fact. Admittedly, the lands in question are belong to the Government. When the entire extent of land measuring over 1032 acres has already been handed over to SIPCOT, interference at this stage may not be appropriate. Since the petitioner had harvested salt on the petition mentioned land, we grant four days time to the petitioner to remove the same.

7. It is seen that the petitioner's father Thiru N.Dhanabalan, filed W.P.(MD)No.8642 of 2020 and the same was dismissed on 05.08.2020. Paragraph 10 of the said order reads as follows:

“10. The petitioners, on account of the dismissal of their revisions, are permitted to submit individual representations with relevant and authenticated documents to the first respondent praying for the allotment of alternate site



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within a period of three weeks from the date of receipt of a copy of this order. The first respondent, on receipt of such representations, is directed to consider the said representations on merits and in accordance with law and pass appropriate orders within a further period of four weeks thereafter and communicate the decision taken to the writ petitioners.”

8. The learned counsel for the petitioner states that since the petitioner had filed revision before the Government, he did not submit any representation. Considering the same, we permit the petitioner to submit a fresh representation to the District Collector, Thoothukudi for allotment of alternate site. Such representation shall be filed within a period of four [4] weeks from the date of receipt of a copy of this order. If such representation is filed, it shall be considered on its own merits and in accordance with law and appropriate order shall be passed by the second respondent within a period of eight [8] weeks thereafter.

9. This Writ Petition is disposed of with the above said direction and liberty. No costs. Consequently, connected miscellaneous petitions are closed.

[G.R.S.,J.] & [P.D.B.,J.]

26.10.2023

Index : Yes/No
Internet : Yes/No
vsm/skm



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G.R.SWAMINATHAN, J.

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ORDER MADE IN

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26.10.2023