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W.A.No.637 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2024

CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

Writ Appeal No.637 of 2024
and
C.M.P.No.4535 of 2024

1.The State of Tamil Nadu,
Represented by Secretary, Adi-Dravidar Welfare Department,
Fort St.George,
Chennai – 600 009.

2.The District Collector,
Kanchipuram District,
Collectorate,
Kanchipuram.

3.The Tahsildar,
Walajabath,
Walajabath Taluk,
Kanchipuram District.

4.The Tahsildar,
Adi Dravidar Welfare,
Taluk Office, Kanchipuram.

... Appellants

Vs.

1.S.Banumathi
2.Shankara Narayanan
3.S.Sathya Narayana

... Respondents



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Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 30.01.2024 made in W.P.No.32485 of 2023.

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For Appellants : Mr.R.Ramanlaal
Additional Advocate General
Assisted by
Mr.A.Selvendran
Special Government Pleader

For Respondents : Mr.P.Dineshkumar

J U D G M E N T

(Judgment of the Court was delivered by S.M.SUBRAMANIAM)

The writ appeal has been instituted against the order dated 30.01.2024 passed in W.P.No.32485 of 2023.

2. The State is the appellant before us. The respondents 1 to 3 filed a writ petition for direction to issue Patta for the property situated in Kancheepuram District and Taluk, Kalur Village, Dry land in S.No.85/4 (Old S.No.811/1 and 811/2) to an extent of 3.92 acres.

3. Mr.R.Ramanlaal, learned Additional Advocate General assisted by Mr.A.Selvendran, learned Special Government Pleader appearing on behalf of the appellants would mainly contend that a direction issued by the



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Writ Court to register a case by the Central Bureau of Investigation (CBI) is beyond the scope of the writ proceedings. More so, the Government has already initiated action to acquire the said land for the purpose of implementing the scheme for the benefit of Adi-Dravidar Community.

4. Though, the appellants have stated all these facts in the Counter Affidavit filed in the writ proceedings, it was not considered. Therefore, the State as preferred the present writ appeal.

5. Mr.P.Dinesh Kumar, learned Counsel for the respondents 1 to 3 would submit that admittedly, earlier land acquisition proceedings were quashed. Therefore, Patta is to be transferred in the name of the erstwhile owner. Since the Patta stands in the name of the Government, the respondents 1 to 3, legal heirs of the erstwhile owner filed the writ petition. The appellants state that they are going to initiate fresh acquisition proceedings. However, as of now, the respondents 1 to 3 are the owners of the subject land. Therefore, necessary changes are to be effected in the Patta Pass Book.

6. Under Section 3 of the Tamil Nadu Patta Pass Book Act, 1983,



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the owner is entitled to submit an application for grant of Patta. In the present case, the acquisition proceedings initiated originally under the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act, 1978 was quashed by the High Court. Since the land acquisition proceeding was quashed, the erstwhile owner of the land became the owner. Therefore, based on the application submitted by the respondents 1 to 3, necessary changes are to be effected in the Patta Passbook.

7. However, learned Additional Advocate General would submit that a fresh acquisition proceedings are proposed to be initiated.

8. There is no impediment for the appellants to initiate fresh acquisition proceedings. In the event of initiation of acquisition proceedings and after following the procedures under the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act, 1978, necessary changes are to be carried out in the Patta Passbook Registers.

9. Admittedly, the proposed land acquisition proceedings are yet to



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be commenced. Therefore, the respondents 1 to 3 are the owners of the subject property as on today. Thus, the appellants have to make necessary changes in the Patta Passbook based on the application submitted by the respondents 1 to 3 under the provisions of the Tamil Nadu Pass Book, Act. After initiation of land acquisition proceedings, the Authorities are empowered to conclude the same and thereafter, make necessary changes and implement the scheme for the benefit of the Adi-Dravidar Community, as per the earlier decision of the Government.

10. As far as the findings of the learned Single Judge that a case is to be registered by the CBI became unnecessary since no circumstances warranting registration of case arises in the present proceedings.

11. The Hon'ble Supreme Court of India in the case of ***Vishal Tiwari Vs. Union of India and Ors.*** reported in ***(2024) SCC Online SC 15*** held as follows:

“33. Recently, in Himanshu Kumar v. State of Chhattisgarh, this Court, speaking through one of us



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(J.B.Pardiwala, J) relying on a judgment of a three-judge Bench of this Court in K.V.Rajendran v. Superintendent of Police reiterated the principle that the power to transfer an investigation to Investigating agencies such as the CBI must be invoked only in rare and exceptional cases. Further, no person can insist that the offence be investigated by a specific agency since the plea can only be that the offence be investigated properly. The Court held as follows:

“49. Elaborating on this principle, this Court further observed:

'17.....the court could exercise its constitutional powers for transferring an investigation from the State investigating agency to any other independent investigating agency like CBI only in rare and exceptional cases. Such as where high officials of State authorities are involved, or the accusation itself is against the top officials of the investigating agency thereby allowing them to influence the investigation, and further that it is so necessary to do justice and to instil confidence in the investigation or where the investigation is prima facie found to be tainted/biased.'

50. The Court reiterated that an



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investigation may be transferred to the CBI only in 'rare and exceptional cases'. One factor that courts may consider is that such transfer is imperative to retain public confidence in the impartial working of the State agencies. This observation must be read with the observations made by the Constitution Bench in the case of State of West Bengal v. Committee for protection of Democratic Rights, that mere allegations against the police do not constitute a sufficient basis to transfer the investigation.

52. *It has been held by this court in CBI v. Rajesh Gandhi, that no one can insist that an offence be investigated by a particular agency. We fully agree with the view in the aforesaid decision. An aggrieved person can only claim that the offence he alleges be investigated properly, but he has no right to claim that it be investigated by any particular agency of his choice.*

53. *The principle of law that emerges from the precedents of this court is that the power to transfer an investigation must be used sparingly and only in exceptional circumstance. In assessing the plea urged by the petitioner that the investigation must be transferred to the CBI,*



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we are guided by the parameters laid down by this court for the exercise of that extraordinary power.” (emphasis supplied).

34. *Given the above position of law, the question that arises before the court is whether, in the facts of the present case, the transfer of investigation from the Securities and Exchange Board of India to another agency is warranted.”*

12. The CBI investigation can be ordered only on certain occasions, where there are compelling circumstances. It cannot be a routine affair to order for investigation by the CBI. The routine cases are to be registered by the State Authorities in the manner provided under law.

13. The appellants were not in a position to take disciplinary proceedings against the erred Officials, who caused delay in conclusion of acquisition proceeding, since those Officials were retired from services long back. That being so, we are inclined to consider the writ appeal.



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14. Accordingly, the order under challenge dated 30.01.2024 in W.P.No.32485 of 2023 is set aside. The appellants are at liberty to initiate fresh land acquisition proceedings in the manner contemplated under law. In the meanwhile, the application already filed by the respondents 1 to 3 under the Tamil Nadu Patta Passbook Act is to be considered for effecting necessary changes.

15. With the above directions, this Writ Appeal stands **allowed**. No costs. Consequently, connected miscellaneous petition is closed.

[S.M.S.J.] [K.R.S.J.]
20.03.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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