



WEB COPY



W.P.No.13741 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2024

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.13741 of 2020

and

W.M.P.No.17125 of 2020

1.M.Palanisamy
2.V.M.Natarajan
3.M.Somasundaram

...petitioners

-Vs-

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

2.The District Collector,
Coimbatore District,
Coimbatore.

3.The District Revenue Officer,
Coimbatore District,
Coimbatore.

4.The Revenue Divisional Officer,
Coimbatore.

5.The Tahsildar,
Coimbatore South Taluk,
Coimbatore.

6.The Tahsildar,
Perur Taluk,
Coimbatore.

...Respondents



W.P.No.13741 of 2020

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorari direction in the nature of a writ calling for the records of the respondents relating to the order of the first respondent Proc.No.F1/6242/2020 dated 19.08.2020 and quash the same and pass such further orders.

For petitioners : Mr.Kandhan Duraisami

For R1 to R6 : Mrs.R.L.Karthika
Government Advocate

ORDER

This writ petition is filed for issuance of a Writ of Certiorari, calling for the records of the respondents relating to the order of the first respondent Proc.No.F1/6242/2020 dated 19.08.2020 and quash the same.

2. The facts of the case in a nutshell:-

2.1 It is the case where the land, which was assigned in the year 1932 to one Mr. Karamadai Maruthan, was purchased by Maruthappa Gounder, father of the petitioners herein vide Sale deed dated 21.05.1961 registered as Document No.1799 of 1961, in the year 1961 and has enjoyed possession since then. The patta was issued on 14.02.1992 recognising the title of Maruthappa Gounder and thereafter, the names of the petitioners have been brought in as absolute owners of the subject land, in the revenue



W.P.No.13741 of 2020

records. The Patta granted was cancelled and resumed by the Revenue Divisional Officer, vide order dated 24.10.1996 on grounds of violation of grant conditions. Aggrieved by that the petitioners herein have preferred Writ Petitions before this Court in W.P.Nos.15861 & 16234 of 1996, in which this Court after considering the averments made by the petitioners as well as the government, has given liberty to the petitioners to prefer regular appeal before the Appellate Authorities, within two months from the date of receipt of a copy of this order and direction was given by the Appellate Authority to examine and dispose of the appeal preferred on merits and in accordance with law.

2.2 Consequent to that, the District Revenue Officer conducted an enquiry and found that the entire records from District Revenue Officer was not forwarded to him for appreciation of the dispute and to arrive at a conclusion. Hence, remanded back to the Revenue Divisional Officer to conduct a detailed enquiry and pass appropriate order.

2.3 Pursuant to this order of the District Revenue Officer, dated 17.04.2009, the Revenue Divisional Officer has issued notice to the parties and fixed an enquiry date directing the petitioners to appear before him on



W.P.No.13741 of 2020

10.06.2013, and thereafter on 10.12.2013, he confirmed the earlier order dated 24.10.1996, resuming the land from the petitioners, holding that there is no prima facie material to interfere with the earlier order dated 24.10.1996. Aggrieved by this order passed by the RDO dated 10.12.2013, the petitioners approached this Court by way of a writ petition in W.P.No.19614 of 2018.

3. Learned counsel for the petitioners submitted that the impugned order of the Revenue Divisional Officer (RDO) dated 10.12.2013 was challenged by the petitioners in W.P.No.19614 of 2018 dated 16.10.2019 and this Court held as follows:

9. Further, the Revenue Standing Order 15.3(2)(xi) reads as below:-

(xi) Resuming authority:- The authority competent to resume or reenter on lands for breach of any condition of assignment shall be as follows:-

(a). The Tahsildar, if the land is non-valuable.

(b). The Revenue Divisional Officer if the land is valuable and

(c). The Commissioner of Land Administration/Government, for the lands assigned prior to 14.05.1973.

10. When the statute prescribes authority by



W.P.No.13741 of 2020

designation to exercise the power of resumption no any person below his rank cannot exercise that power. The Government referred in the said statute doesn't mean that all the Officials in the Government. It is the Department in the Government/Higher Authority representing the Government and the Executive of the concerned Department. By no stretch of imagination, the power vested with Commissioner of Land Administration/Government can be exercised by any Officials who is the below rank of Commissioner Land Administration.

11. For the reasons stated above, the Writ Petition is bound to be allowed.

12. Accordingly, the Writ Petition is Allowed. It is open for the Authorities concern to refer the matter to Commissioner of Land Administration/Government and to consider the matter afresh and pass appropriate order. No costs. Consequently, connected Miscellaneous Petitions are closed.

4. Learned counsel further submitted that the impugned order passed by the first respondent dated 19.08.2020, without giving due notice to both parties and not affording an opportunity of personal hearing to the petitioners, is a violation of principles of natural justice.

5. Learned counsel further submitted that during the enquiry before the



W.P.No.13741 of 2020

Revenue Divisional Officer (RDO) one counsel appeared for two parties, having lands at Vadavalli Village, Perur Taluk, Coimbatore District and the petitioner's land at Keeranatham Village, Coimbatore North Taluk, Coimbatore District.

6. In the impugned order dated 19.08.2020, it is clearly mentioned in para 10 which reads as follows:

“10. Further, it is also seen from the proceeding of the Revenue Divisional Officer, Coimbatore, that similar violation of assignment conditions noticed in respect of 1.95 acres of lands in S.No.473/262 of Keeranatham Village, Coimbatore North Taluk, Coimbatore District, granted in favour of Thiru.Palani Mathari. The said assignment is also liable for cancellation for violation of assignment conditions. Hence, the District Collector, Coimbatore, is hereby directed to verify the relevant records and cancel the assignment made in respect of land in S.No.473/262 by adopting due procedure and furnish compliance report.”

7. In view of the above submission made by the learned counsel on either side, the impugned order passed by the first respondent dated 19.08.2020 is liable to be set aside and this Court remits the matter back



W.P.No.13741 of 2020

back to the first respondent for a fresh consideration after giving due notice to both parties, affording an opportunity of personal hearing to the petitioners as well as rival claimants/interested parties if any, to take into consideration all the relevant documents submitted by the parties in regard to the subject matter property and pass appropriate orders on merits, in accordance with law thereby following the above principles of natural justice within a period of four months from the date of receipt of a copy of this order.

In the result, the writ petition stands disposed of with the above observation and direction. No costs. Consequently, connected miscellaneous petition is closed.

18.06.2024

cda

Index : Yes/No

Speaking / Non-Speaking Order

J.SATHYA NARAYANA PRASAD, J.

cda



W.P.No.13741 of 2020

To

WEB COPY

- 1.The Commissioner of Land Administration,
Chepauk, Chennai – 600 005.
- 2.The District Collector,
Coimbatore District,
Coimbatore.
- 3.The District Revenue Officer,
Coimbatore District,
Coimbatore.
- 4.The Revenue Divisional Officer,
Coimbatore.
- 5.The Tahsildar,
Coimbatore South Taluk,
Coimbatore.
- 6.The Tahsildar,
Perur Taluk,
Coimbatore.

W.P.No.13741 of 2020

18.06.2024