



W.A.Nos.2805 & 2890 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2024

WEB COPY

CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

W.A.Nos.2805 & 2890 of 2021
and
CMP.Nos.18470 & 19440 of 2021

W.A.No.2805 of 2021

1. The Special Commissioner and
Commissioner of Land Administration,
Chepauk, Chennai.
2. The District Collector,
Kanchipuram,
(Now, Chengalpattu District).
3. The Revenue Divisional Officer,
Tambaram Division,
Chengalpattu District.
4. The Government of Tamil Nadu,
Represented by its Secretary to Government,
Revenue Department,
Fort St.George, Chennai - 09. ... Appellant

Vs.



W.A.Nos.2805 & 2890 of 2021

WEB COPY

1. Seriya Pushpam,
Represented by her Power of Attorney,
M.Jayakumar.

2. The Chairman,
Tamil Nadu Slum Clearance Board,
Rajaji Salai,
Chennai - 5.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 17.03.2021 passed in W.P.No.11836 of 2010.

For Appellants : Mr.A.Selvendran
Special Government Pleader

For R1 : Mr.V.Raghavachari
Senior Counsel
for Mrs.V.Srimathi

For R2 : Mrs.K.Indumathy
Standing Counsel for TNUHDB

W.A.No.2890 of 2021

The Chairman,
Tamil Nadu Slum Clearance Board,
(Now renamed as Tamil Nadu Urban Habitat
Development Board),
Rajaji Salai,
Chennai - 600 005.

... Appellant

Vs.

1. Seriya Pushpam



WEB COPY



W.A.Nos.2805 & 2890 of 2021

2. The Special Commissioner and
Commissioner for Land Administration,
Chepauk,
Chennai.
3. The District Collector,
Kanchipuram District.
4. The Revenue Divisional Officer,
Saidapet Taluk,
Chengalpet District.
5. The Government of Tamil Nadu,
Represented by the Secretary to Government,
Revenue Department,
Fort St.George,
Chennai - 9.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 17.03.2021 passed in W.P.No.11836 of 2010.

For Appellant : Mrs.G.Thilagavathy
Senior Counsel
for Mr.B.Balaji
Standing Counsel for TNUHDB

For R1 : Mr.V.Raghavachari
Senior Counsel
for V.Srimathi

For R2 to R5 : Mr.A.Selvendran
Special Government Pleader

COMMON JUDGMENT

(Judgment of the Court was made by **S.M.SUBRAMANIAM, J.**)



W.A.Nos.2805 & 2890 of 2021

WEB COPY

The subject Government land involved in the present writ appeals situate in Survey Nos.523 and 524 of Perumbakkam Village, Saidapet Taluk, Chengalpattu District, which was said to be assigned in favour of the respondent/writ petitioner.

2. Admittedly, the subject land measuring to an extent of 5 acres are falling within the territorial limits of Chennai Metropolitan City. During the pendency of the writ petition, tenements were constructed by the Tamil Nadu Urban Habitat Development Board (in short "TNUHDB") and approximately 20,000 families are in occupation of their respective tenements in the subject property. The Perumbakkam Scheme was developed by TNUHDB to relocate the encroachers in Chennai City. Several blocks are constructed and allotments are made to the eligible persons and in respect of the subject property measuring to an extent of 5 acres are concerned, 20,000 families are in occupation as of now.

3. The Scheme has been extended to 46.65 Hectares and several thousands of tenements are constructed.



WEB COPY

4. The factual matrix reveals that by G.O.Ms.No.2736, Revenue Department, dated 02.09.1966, five acres of land in S.Nos.523 and 524, Perumbakkam Village, Saidapet Taluk, Chengalpattu District had been assigned in favour of one late Mr.V.Doss Peck husband of the respondent/Mrs.Seriya Pushpam, represented by her Power of Attorney Mr.M.Jayakumar. The assignment order issued by the Government would stipulate the condition that the assignee should spend a reasonable amount for reclamation of land so as to make it fit for cultivation. The deceased husband of the respondent/Mrs.Seriya Pushpam was in military service during the relevant point of time. He made a request for an assignment of land for irrigation purposes. Accordingly, the Government considered the request of late Mr.V.Doss Peck and assigned the subject land at free of cost for cultivation purposes. It is made clear in the Government Order that the conditions of assignment stipulated in the Revenue Standing Orders would apply.

5. Based on the assignment order issued in G.O.Ms.No.2736, Revenue Department, dated 02.09.1966, the respondent claims right over the



Government land.

WEB COPY

6. Mr.V.Raghavachari, the learned Senior Counsel appearing on behalf of the first respondent would mainly contend that the assignment order issued in the year 1966 has not been cancelled. The statement of the appellants that the assignment was canceled is not supported by any documents. The writ court granted several opportunities to the appellants to produce the original records and they failed to do so. The deceased husband of the respondent had no knowledge about the cancellation of assignment. In the absence of any such knowledge, the assignment remains intact and consequently, the first respondent is entitled for compensation. In support of the said contention, the learned Senior Counsel would rely on certain Judgments, which would show that even in the absence of any compensation clause, the assignee is entitled for compensation, if the assignment has not been canceled by following due process. Those Judgments in our opinion may not be required, since there is a clause in the Revenue Standing Orders for grant of compensation to the assignees.

7. However, the question arises whether in the present case, the deceased husband of the first respondent is eligible to avail the benefit of



compensation under the Revenue Standing Order?

WEB COPY

8. Mr.A.Selvendran, learned Special Government Pleader appearing on behalf of the State would mainly contend that the assignment *per se* is illegal. Assignment of land within Chennai City and Chengalpattu District are banned by the Government in G.O.Ms.No.1135, Revenue Department dated 17.03.1962. The Chennai belt area list also has been furnished in the Government Order. The lands assigned in favour of late Mr.V.Doss Peck is falling within the territorial jurisdiction of Chennai City and it is a valuable Government land. Thus, the assignment itself is null and void. Therefore, the ground raised regarding cancellation deserves no merit consideration.

9. The learned Special Government Pleader on instructions from the Authorities would submit that the market value of the subject land assigned in favour of the first respondent's husband under the Ex-servicemen quota is approximately about 144 crores. Such valuable Government lands cannot be assigned as per Government Order dated 17.03.1962. Therefore, the assignment order made in the year 1966 would confer no right on the assignee. Therefore, the allotment of land in favour of TNUHDB (Slum



W.A.Nos.2805 & 2890 of 2021

Clearance Board) is proper. More-so, the land has been utilised for public purpose in order to accommodate the landless poor and slum dwellers in the Chennai City.

10. Mrs.K.Indumathy, the learned Counsel appearing on behalf of the TNUHDB would submit that the land was allotted for development of Perumbakkam Scheme and the Board is the requisitioning body. They have made steps to evict the encroachers and certain encroachers identified as eligible persons were allotted tenements under Perumbakkam Scheme. Therefore, it is a welfare scheme implemented in order to accommodate homeless poor people in Chennai City. Therefore, the ground raised by the first respondent deserves to be rejected.

11. Mr.V.Raghavachari, the learned Senior Counsel appearing on behalf the first respondent would mainly rely on the ground regarding cancellation of assignment, which was not made properly by the Authorities nor communicated to the deceased husband of the respondent. However, the respective learned Counsels appearing on behalf of the appellants and Slum Clearance Board would oppose by stating that the cancellation was made in



W.A.Nos.2805 & 2890 of 2021

the year 1983 and necessary entries were made in the Revenue Records. The land remains vacant for several years and no cultivation activities are going on. Since, the Revenue Records are mutated consequent to the cancellation of assignment, now the first respondent cannot claim compensation or to validate the assignment made illegally in violation of the ban imposed by the Government.

12. Considering the arguments, issues to be considered are:

(i) Whether the assignment made in favour of the deceased husband of the respondent late Mr.V.Doss Peck in G.O.Ms.No.2736 dated 02.09.1966 is valid or not?

(ii) Whether the first respondent is entitled for compensation under the Revenue Standing Order or not?

13. It is contended that the assignment order itself indicates about the Government Order imposing ban in G.O.Ms.No.1135 dated 17.03.1962. However, the assignment order stipulates that the conditions applicable to an



W.A.Nos.2805 & 2890 of 2021

assignment are to be followed.

WEB COPY

14. Let us now examine the Government Order of ban issued in G.O.Ms.No.1135, Revenue Department, dated 17.03.1962. The order speaks about assignment of lands at Saidapet Taluk, Chengalpattu District etc., The Government has taken a decision and ordered that the Collectors of Madras and Chengalpattu should not assign or otherwise dispose of vacant lands in Madras or in belt area to five miles beyond the limits of Madras City lying within Chengalpattu District. The Government Order was issued based on the proposals submitted by the Board of Revenue. The proposal would indicate that:

(i) for extending this ban to areas within a radius of 20 miles excluding encroachments on poramboke by way of residential but for a considerably long time and assessed waste lands occupied under Sivaijama occupation.

(ii) for the encroachment of the removal of encroachment to ensure that fresh encroachment do not crop in and to regularise encroachment whenever necessary by employing special staff for the purposes.



WEB COPY

15. Once the Government imposed ban for assignment of lands in Chennai City and Chengalpattu District, relaxation, presumably granted would result in a wrong precedent and several such Ex-Servicemen will also claim assignment of 5 acres of land in Chennai City. *Prima facie*, it is found that the assignment is not made genuinely and to protect the livelihood of these Ex-Servicemen. Assignment of five acres of land in Chennai City for cultivation purposes is impracticable. Therefore, the very nature of assignment made in favour of the deceased husband of the first respondent appears to be improper.

16. **The subject land is surrounded by several multi-storeyed residential buildings, Colleges, Hospitals etc., Information technology parks are constructed and presently, the market value of 5 acres of land in that locality is approximately Rs.144 crores.** Assignment of such a valuable land to an Ex-servicemen for cultivation purposes at no circumstances be approved by this Court. The very object and spirit of the Revenue Standing Order to assign land for agricultural purposes are to protect the livelihood of Ex-serviceman after retirement. Allotment of 5 acres of land



W.A.Nos.2805 & 2890 of 2021

in Chennai City to Ex-servicemen cannot be said to fulfill the object and purpose sought to be achieved by assigning the land under the Revenue Standing Orders.

17. When the Government itself imposed ban on assignment of Government lands in Chennai City and Chengalpattu District, the grant of relaxation if any *per se* is illegal. In such circumstances, many such Ex-servicemen and other persons will claim assignment on that basis and it will open Pandora's Box and would lead to corrupt practices. Thus, the assignment granted in favour of the deceased Ex-servicemen in our opinion is in violation of the Government Order imposing ban and in violation of the spirit of the Revenue Standing Order conferring power to assign Government land to Ex-servicemen for cultivation.

18. It is contended that no cultivation activities are going on for several years in that locality. Perumbakkam area is located in Old Mahabalipuram Road, presently, information technology parks are constructed in that locality and many multi-storeyed residential buildings are



W.A.Nos.2805 & 2890 of 2021

also constructed by private builders and Perumbakkam Scheme has been implemented by the Government for the purpose of relocating slum dwellers.

Tsunami affected families are provided allotment of tenements under Perumbakkam Scheme. Therefore, such public welfare schemes implemented cannot be disturbed at this length of time at the instance of the first espondent, who claims to be the wife of an assignee/ex-servicemen.

19. Regarding the compensation claimed by the first respondent, this Court is of the considered opinion that the assignment itself has not been validly made in accordance with the Revenue Standing Orders. The assignment was made during the ban period as per G.O.Ms.No.1135, Revenue Department dated 17.03.1962. When the assignment itself is improper and illegal grant of compensation under the Revenue Standing Order would not arise at all.

20. RSO-15 Clause 12 (3) stipulates special conditions. One of the special condition states that "the land shall be brought under cultivation within a period of three years from the date of assignment." In the present case, the assignment order itself stipulates that the assignee should spend



W.A.Nos.2805 & 2890 of 2021

reasonable amount for reclamation of land and make it fit for cultivation. It further states that the conditions of assignment as stipulated under the Revenue Standing Order would apply. It is not established during the relevant point of time that the deceased Ex-servicemen converted the subject land fit for cultivation or was cultivating the land. In the absence of any proof to establish cultivation, the respondent is not entitled for any relief. The land remains vacant for several years. The Government resumed the subject land and allotted to the Slum Clearance Board for developing Perumbakkam Scheme. Scheme has already been developed. 20,000 families are in occupation of tenements. Under these circumstances, we are not inclined to interfere with the actions taken by the Government as well as the TNUHDB made in the public interest and for the benefit of the slum dwellers.

21. In view of the facts and circumstances, the reasoning given by the writ court is running counter to the factual situation prevailing in the subject Government land as well as the Revenue Standing Order for assignment of Government lands to Ex-Servicemen in Chennai City limits



W.A.Nos.2805 & 2890 of 2021

and in Chengalpattu District. Consequently, the order impugned dated 17.03.2021 passed in W.P.No.11836 of 2010 dated 17.03.2021 is set aside and the writ appeals stand **allowed**. No costs. Connected miscellaneous petitions are closed.

[S.M.S., J.] [C.K., J.]
09.07.2024

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

To

1. The Special Commissioner and
Commissioner of Land Administration,
Chepauk, Chennai.
2. The District Collector,
Kanchipuram,

Page No.15 of 17



W.A.Nos.2805 & 2890 of 2021

(Now, Chengalpattu District).

3. The Revenue Divisional Officer,
Tambaram Division,
Chengalpattu District.
4. The Government of Tamil Nadu,
Represented by its Secretary to Government,
Revenue Department,
Fort St.George, Chennai - 09.
5. The Chairman,
Tamil Nadu Slum Clearance Board,
Rajaji Salai,
Chennai - 5.

S.M.SUBRAMANIAM, J.
AND
C.KUMARAPPAN, J.

veda



WEB COPY



W.A.Nos.2805 & 2890 of 2021

Judgment in
W.A.Nos.2805 & 2890 of 2021

09.07.2024