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W.P.No.29055 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2024

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.29055 of 2018
and W.M.P.Nos.33982 & 33983 of 2018

Hindustan Engineering Training Centre,
Rep. by its Treasurer,
No.40, G.S.T. Road,
St.Thomas Mount,
Chennai – 600 016.

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by its Principal Secretary,
Revenue & Disaster Management Department,
Land Disposal Wing, [LD1(1)] Department,
Secretariat, Chennai – 600 009.

2.The District Collector,
Kancheepuram District,
Kancheepuram.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India,
praying for issuance of Writ of Certiorarified Mandamus calling for the
records of the first respondent in G.O.Ms.No.352 Revenue & Disaster
Management Department, Land Disposal Wing, [LD1(1)] Department dated
24.09.2018 and quash the same and consequently direct the first respondent to

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include S.No.435/1 St.Thomas Mount, Chennai – 16 under Section 21 in the Schedule of the Tamil Nadu Levy of Ryotwari Assessment on Free Hold Lands Act, 1972 (31 of 1973).

For Petitioners : Mr.Doraisami,
Senior Counsel
for Mr.Muthumani Doraisami

For Respondents 1 & 2 : M/s.R.L.Karthika,
Government Advocate

ORDER

The petitioner has filed this petition to call for the records of the first respondent in G.O.Ms.No.352 Revenue & Disaster Management Department, Land Disposal Wing, [LD1(1)] Department dated 24.09.2018 and quash the same and consequently direct the first respondent to include S.No.435/1 St.Thomas Mount, Chennai – 16 under Section 21 in the Schedule of the Tamil Nadu Levy of Ryotwari Assessment on Free Hold Lands Act, 1972 (31 of 1973).

2. The case of the petitioner is that the petitioner is a society registered under the Societies Registration Act, 1860. The land measuring an extent of 3.12 acres comprised in S.No.435/1 of St.thomas Mount Village was



purchased through various sale deeds during the period from 1972 to 2001 in the names of HETC Society, which was used for running educational institutions and society. In the year 2005, the Government of India issued Notification under Section 3A (3) of the National Highways Act, 1956 and acquired an extent of 1.05 acres of land for the purpose of construction of grade separator at Kathipara Junction, for which, the society made a claim for compensation. However, the same was denied by the then Special District Revenue Officer (LA) stating that there is no patta for the said land.

2.1. Therefore, the petitioner has submitted an application before the second respondent seeking to issue patta for the lands in S.No.435/1. Pursuant to the said application, the second respondent recommended the authority concerned to bring S.No.435/1 under the schedule to the Free Hold Act and to pass appropriate orders for issuance of patta to the above said land. However, no steps were taken by the concerned authorities. Hence, the petitioner has filed writ petition in W.P.No.5680 of 2009, before this Court and the same was allowed on 29.11.2013 with a direction to the second respondent to consider the matter afresh. But, the same was not complied by the second respondent.



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2.2. Since no order was passed, the petitioner has filed a contempt petition in Cont.P.No.3163 of 2014, before this Court. In pursuant to the order passed by this Court in Cont.P.No.3163 of 2014, the petitioner has sent a detailed representation to the concerned authority. However, the same was not considered. Therefore, he has filed another Contempt Petition in Cont.P.No.1223 of 2018. Subsequent to the filing of this contempt petition, the first respondent issued a G.O.Ms.No.352 Revenue & Disaster Management Department, land Disposal Wing, [LD1(1)] Department, dated 24.09.2018, rejecting the request of the petitioner. Challenging the said Government Order, the petitioner has come forward with the present writ petition.

3. Learned senior counsel for the petitioner submitted that he has challenged a Section 7 notice issued under the Land Encroachment Act, 1905 by filing an appeal before the District Collector, Chengalpattu, however, the same was rejected. Challenging the rejection order, the petitioner has preferred a review petition before the first respondent in



the month of May 2024 and the same is pending till date. Hence, he prayed this Court that a direction may be issued to the first respondent to consider the review petition and pass appropriate orders on merits and in accordance with law.

4. Heard the learned senior counsel for the petitioner and the learned Government Advocate appearing for the respondents and perused the materials available on record.

5. At this juncture, it is pertinent to extract the common order passed by this Court in W.P.Nos.5680 of 2009 & 13302 of 2010 dated 29.11.2013 and the same reads as follows:

“In yet another letter dated 06.8.2009 written by the Collector, Kancheepuram, it is mentioned that the land in question is a free old land and the compensation is fixed at Rs. 1100/

9. From all the above communication, prima facie the land in question is a patta land and it belongs to the individual and the possession has been changed to several hands and ultimately, the present petitioner is now in possession and enjoyment of the property.

10. But at the same time, it is the submission of the learned Additional Solicitor General that as per the latest report



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given by the District Collector, the petitioners are encroachers and therefore, they are not having any right over the property in question.

11. It appears that the present status has been mentioned in the counter statement and no separate report has been produced by the Government. Therefore, I am of the view that the said report will not hold good and ownership of the land. on that basis one But at the cannot same decide time, the several communications would show that the land in question belongs to Government. It is needless to state that the possession will not be determined by any other authority rather than the Court concerned. Therefore, the interim report filed by the authority will not helpful for the present, case.

12. But as per the records produced by the petitioners, it is dear that the land in question is a patta land and the same has then changed to several hands from 1906 onwards and ultimately, the petitioners have purchased and they are in possession and enjoyment of the same. In such a case, I am of the view that if the Government takes a stand that the land in question belongs to them, it is for them to produce lease hold right as well as lease deed entered upon between the parties.”

6. The aforesaid common order passed by this Court dated 29.11.2013 was not complied/followed and also taking into consideration the fact that the petitioner was not given sufficient/reasonable opportunity of personal hearing, the G.O.Ms.No.352 Revenue & Disaster Management Department, Land Disposal Wing, [LD1(1)] Department



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dated 24.09.2018 is liable to be set aside and the same is hereby set aside.

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7. Hence, this court remits the matter back to the first respondent for a fresh consideration after giving due notice, affording an opportunity of personal hearing to the petitioner, to take into consideration all the relevant documents submitted by the petitioner 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. Since a review petition, challenging the Section 7 notice under Land Encroachment Act, 1905, filed by the petitioner is already pending before the first respondent, this Court directs the first respondent to dispose of the same together, within a period of three months from the date of receipt of a copy of this order.

8. This writ petition is allowed with the aforesaid observation and direction. No costs. Consequently, connected miscellaneous petitions are closed.

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

J.SATHYA NARAYANA PRASAD,J.

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To:

- 1.The Principal Secretary,
Government of Tamil Nadu,
Revenue & Disaster Management Department,
Land Disposal Wing, [LD1(1)] Department,
Secretariat, Chennai – 600 009.
- 2.The District Collector,
Kancheepuram District,
Kancheepuram.

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