



W.A(MD)No.1615 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 08.02.2024

PRONOUNCED ON : 22.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.A(MD).No.1615 of 2018
and
C.M.P.(MD)No.11733 of 2018

C.Panjavarnam

... Appellant / Third Party

Vs.

1.S.Devadass

... 1st Respondent/ Writ Petitioner

2.The District Collector,
Madurai District,
Madurai.

3.The Special Tahsildar
(Land Acquisition) ADW),
Unit No.2, Collectorate,
Madurai.

4.The Tahsildar,
Melur Taluk,
Madurai District.

5.C.Nallammal

... Respondents 2-5/Respondents 1-4



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Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to allow the appeal and set aside the order of this Court made in W.P(MD).No.3445 of 2016 dated 03.11.2016.

For Appellant : Mr.R.V.Rajkumar
For Respondents : Mr.A.Sivaji for R1
: Mr.S.P.Maharajan
Special Government Pleader for R2 to R4
: No appearance for R5

J U D G M E N T

R.VIJAYAKUMAR,J.

Third party to W.P.(MD)No.3445 of 2016 is the appellant herein. The said Writ Petition was filed by a land owner seeking a Writ of Mandamus directing the Revenue Officials to enter his name in the patta for his land in Survey No.238/2 in Kottampatti, Melur Taluk, Madurai District. The Writ Court was pleased to allow the Writ Petition directing the Revenue Officials, to mutate the patta in the name of the writ petitioner therein. Challenging the said order, the present Writ Appeal had been filed by a third party, who is the beneficiary of the Acquisition proceedings.



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2. The facts leading to the filing of this Writ Appeal are as follows:

Two land owners, namely, S.Nagarajan and T.Saraswathy Ammal had filed W.P.Nos.8770 and 8775 of 2003 before the Principal Bench of Madras High Court, challenging the land acquisition proceedings initiated under Tamil Nadu Acquisition of Harijan Welfare Scheme Act, 1978. The primary contention of the land owners was that before issuance of Notification under Section 4(1) of the Act, no notice was issued to the petitioners therein as contemplated under Section 4(2) of the Act. The Writ Court was not convinced with the case of the Petitioners and dismissed the said Writ Petitions on 09.08.2011.

3. Aggrieved over the said order, the land owners had filed W.A.Nos. 2153 and 2154 of 2013. The Division Bench by an order dated 11.07.2014 allowed the Writ Appeal and set aside the acquisition proceedings. However, liberty was granted to the authorities to initiate fresh acquisition proceedings in accordance with law.

4. Based upon the order of the Division Bench, the land owners had approached the authorities for transfer of patta in their name. Since the same



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was not considered, the petitioners had filed the present Writ Petitions in W.P. (MD)Nos.2933 and 3445 of 2016, seeking a Writ of Mandamus as against the authorities for mutation of revenue records in their name. The Writ Court was pleased to allow the writ petitions and issued a direction to the authorities to mutate the revenue records in favour of the land owners. The objection raised by the fourth respondent in the writ petition was rejected by the Writ Court on the ground that she is only a beneficiary of the acquisition proceedings. Since the acquisition proceedings have already been set aside by the Division Bench, the fourth respondent cannot claim any right. The present appellant viz. C.Panchavarnam has been issued with assignment order, pursuant to the acquisition proceedings. Therefore, aggrieved over the order passed by the Writ Court with regard to mutation of revenue records in the name of the original land owners, she had filed the present Writ Appeal.

5. The contentions of the learned counsel for the appellant are as follows:

(i) After the acquisition proceedings, assignment orders were issued in favour of 177 beneficiaries and pattas were also mutated in their names. The compensation for the acquired land was also deposited and therefore, without



hearing the beneficiaries of the acquisition proceedings, the Writ Court ought not to have issued a positive direction for mutation of revenue records.

(ii) After the dismissal of the Writ Petition, one of the land owners, viz, Saraswathy Ammal had executed a settlement deed in favour of her son and thereafter, the same was sold to one Devadass. After initiation of acquisition proceedings, the land owners had no right to sell the property. Suppressing the said sale, the said Saraswathy Ammal had filed a Writ Appeal in W.A.No.2154 of 2013 and therefore, a fraud has been committed upon the Court.

(iii) After the Division Bench judgment, one of the land owners had sought for mutation of revenue records in his favour and the same was rejected on 15.10.2014. Suppressing the same, Writ of Mandamus has been filed, seeking mutation of revenue records.

(iv) Though the appellant herein was one among 177 beneficiaries, she was not arrayed as a party to the Writ Petition.

(v) One of the land owners, viz., Nagarajan had earlier filed Writ Petitions for reconveyance of the land and the same were dismissed. Suppressing the same, the present Writ Petitions have been filed.

(vi) The Hon'ble Division Bench, in W.A.Nos.2153 and 2154 of 2013, while setting aside the acquisition proceedings, had granted liberty to the



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authorities to initiate fresh acquisition proceedings. The Director of Adi Dravidar Welfare, Chennai, by his proceedings, dated 31.08.2017, had addressed a communication to the District Collector to initiate fresh land acquisition proceedings in accordance with law. Therefore, it is clear that the land in question is still required for public purposes. In such view of the matter, if the patta is transferred in the name of the original land owners, serious prejudice would be caused to the beneficiaries. That apart, there is a possibility of creation of further encumbrance by the original land owners.

(vii) The order in W.A.(MD)Nos.2153 and 2154 of 2013, dated 11.07.2014 has been obtained by playing fraud upon the Court. Hence, the said order will not confer any benefit upon the land owners. When the said order is void in nature, the acquisition proceedings should be presumed to be in force. In such an event, a positive direction cannot be issued to the authorities to transfer the patta in the name of the original land owners. Hence, he prayed for allowing the Writ Appeal.

6. The contentions of the learned counsel appearing for the respondents are as follows:

The learned Special Government Pleader contended that though the acquisition proceedings initiated by the Government have been quashed by the



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Hon'ble Division Bench of this Court, now steps have been taken to initiate fresh acquisition proceedings in accordance with law and therefore, he prayed for passing of appropriate orders.

7. The learned counsel appearing for the land owners contended that since the acquisition proceedings were quashed by the Hon'ble Division Bench 10 years back and so far fresh acquisition proceedings have not been initiated by the authorities, the Writ Court was right in issuing a positive direction to the authorities to mutate the revenue records in the name of the original owners. He further contended that the acquisition proceedings were set aside by the Division Bench on the ground that no notice has been issued to the land owners and Section 4 (2) of the Act, before issuance of Notification and Section 4(1) of the Act. Therefore, it is clear that the acquisition proceedings have been set aside on the ground of statutory violation. In such circumstances, allegation of obtaining orders by playing fraud upon the Court is clearly not sustainable. When the acquisition proceedings are set aside, the appellant herein, who is claiming right through the acquisition proceedings has no legs to stand. The appellant has no *locus standi* to challenge the order of the Writ Court. Hence, he prayed for dismissal of the Writ Appeal.



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8. We have carefully considered the submissions made on either side and perused the materials available on records.

Discussion:

9. The Division Bench of this Court, in its order, in W.A.No.2153 and 2154 of 2013, dated 11.07.2014, in paragraph No.17, held as follows:

“17. Considering all these facts and circumstances and the case law as discussed supra, we are of the view that the appellants are entitled to succeed in these appeals. Accordingly, the writ appeals are allowed and the impugned acquisition proceedings are set aside. However, with liberty to the respondents to initiate acquisition proceedings afresh in accordance with law if it is so warranted under the present facts and circumstances. This order will not stand in the way of the District Collector to initiate fresh proceedings in accordance with law.”

10. A perusal of the order would clearly indicate that the acquisition proceedings have been set aside on the ground of statutory violation, granting liberty to the authorities to initiate fresh acquisition proceedings, if so warranted. Though the said order was passed on 11.07.2014, for the past 10 years, no such proceedings has been initiated. Two land owners have filed



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W.P.Nos.2933 & 3445 of 2016 seeking a Writ of Mandamus to the revenue authorities, to transfer the patta in their names for their respective properties. By way of common order, dated 03.11.2016, the Writ Court had allowed both the Writ Petitions. It is not known why the petitioner has not chosen only to challenge the order in W.P.(MD)No.3445 of 2016 leaving the order in W.P. (MD)No.2933 of 2016 unchallenged .

11. The primary contention of the appellant is that the order of the Division Bench of this Court has been obtained by playing fraud upon the Court and therefore, the said order cannot come to the rescue of the land owners. According to the learned counsel appearing for the appellant, after the acquisition proceedings, the land owners have sold the properties to third parties and therefore, they did not have any right to continue the proceedings. The land owners have made a request for transfer of patta in their names, after the Division Bench order, but the same was rejected by the Revenue officials. Suppressing the same, the land owners had filed the present Writ Petition seeking a Writ of Mandamus for issuance of patta. In view of the suppression of these facts, the orders obtained by the land owners are void in nature. On the one hand, the learned counsel appearing for the appellant contends that the



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land owners cannot alienate their property after initiation of acquisition proceedings. But, on the other hand, he contends that the original land owners will not be entitled to continue the proceedings, after alienating the properties. It is settled position of law that even after alienation of the property, a vendor would be under obligation to continue the legal proceedings to clear the title in favour of the purchasers. Therefore, there is nothing wrong on the part of the original land owners to continue the legal proceedings to protect the title so as to pass it over to the purchaser.

12. Admittedly, the petitioner is one of the beneficiaries of the acquisition proceedings and she has been issued with a order of assignment. One of the other beneficiaries has been impleaded in the Writ Petition. Once acquisition proceedings are set aside, the Government loses its title over the property. Consequently the assignment orders / pattas issued in favour of the beneficiaries, based upon the said acquisition proceedings would become unenforceable. Therefore, relying upon the assignment order / patta, the petitioner would not have any *locus standi* to challenge the mutation of revenue records in favour of the original land owners, in view of setting aside the acquisition proceedings.



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13. Though the Director of Adi Dravidar Welfare had addressed the communication to the District Collector as early as on 31.08.2017, the District Collector is yet to initiate any fresh proceeding for acquisition of land in question. As long as fresh acquisition proceedings are initiated, the patta should only be in the name of the original land owners. Just because the State has contemplated to initiate acquisition proceedings, the pattas cannot stand in the name of the beneficiaries of the acquisition proceedings, which was set aside by the Division Bench. Even if fresh acquisition proceedings are initiated, it is for the authorities to decide whether the appellant herein would be eligible for patta or not at the relevant point of time.

14. The acquisition proceedings are challenged by the land owners, alleging statutory violation by the official respondents. Therefore, it is not necessary to implead the beneficiaries, who received assignment order pursuant to the acquisition proceedings. Once acquisition proceedings fall, the assignment order / patta granted to the beneficiaries would automatically fall. Therefore, non-impleadment of the beneficiaries in the Writ Petition, challenging the acquisition proceedings could not be fatal. In fact, one of the



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beneficiaries has been impleaded as the fourth respondent in the present Writ Petition.

15. The Writ Court had rightly issued a positive direction to the revenue officials to restore the patta in the name of the original land owners. The Writ Court has also found that the fourth respondent cannot claim any right based upon the assignment order granted by the official respondents and has also clarified that it is open to the official respondents to initiate fresh acquisition proceedings.

16. In view of the above deliberations, we do not find any merit in this Writ Appeal. Accordingly, this Writ Appeal stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

(D.K.K.,J.) (R.V.,J.)
22.02.2024

Index :Yes/No
Internet :Yes/No
NCC :Yes/No

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**D.KRISHNAKUMAR, J.
AND
R.VIJAYAKUMAR,J.**

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Pre-delivery Judgment made in
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