



WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.10.2024

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THE HONOURABLE Ms.JUSTICE P.T.ASHA

W.P.(MD) Nos.20315, 22232, 22229, 22230, 22231 and 20751 of 2018 and 5801, 7635, 7647, 5776, 5777, 5778, 11141, 5780 to 5800, 5802 to 5817, 7636 to 7646, 7648 to 7665, 8041 to 8043, 8841 and 21582 of 2019

and

W.M.P.(MD) Nos.20156, 20159, 20161, 20163, 20157, 20158, 20160, 20164, 20166, 20167, 20162, 20165, 18077, 18506, 1807 and 18508 of 2018 and 4556, 4561, 4562, 6074, 18257, 4610, 4612, 4549, 4550, 4552, 4553, 4555, 4558, 4559, 4564, 4565, 4567, 4568, 4570, 4571, 4573, 4574, 4576, 4577, 4579, 4580, 4582, 4583, 4585, 4586, 4588, 4589, 4591, 4592, 4594, 4595, 4597, 4598, 4660, 4601, 4603, 4604, 4606, 4607, 4609, 4624, 4613, 4615, 4616, 4618, 4619, 4621, 4622, 4625, 4627, 4628, 4630, 4631, 4633, 4634, 4636, 4637, 4639, 4640, 4642, 4643, 4645, 4646, 4648, 4649, 4651, 4652, 4654, 4655, 4657, 4658, 4660, 4661, 4663, 4664, 4666, 4667, 4669, 4670, 4672, 4673, 6075, 6076, 6077, 6078, 6079, 6080, 6081, 6082, 6083, 6084, 6085, 6086, 6087 to 6104, 6349 to 6357, 6873, 8509, 8510 and 18255 of 2019

In W.P.(MD) No.20315 of 2018:-

Thalai Lalitha

... Petitioner

/vs./

1.The State of Tamil Nadu,
rep. by its Principal Secretary,
Department of Revenue and Disaster Management,
Fort St.George, Chennai 09.07.1945



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2.The Commissioner of Land Administration,
O/o. the Commissioner of Land Administration,
Ezhilagam,
Chepauk, Chennai -05.

3.The District Collector,
Theni District, Theni.

4.The Revenue Divisional Officer,
O/o. the Revenue Divisional Officer,
Thamaraikulam,
Periyakulam, Theni District.

5.The Tahsildar,
Theni Taluk, Theni District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, forbearing the respondent No.4 from cancelling the assignment and resuming the lands in S.No.746/3 to a total extent of 2123.81 sqft at koduvilarpatty village, Theni Taluk, Theni District.

For Petitioner : Mr.M.Mahaboob Fazil for
Mr.S.Rajasekar

For Respondents : Mr.B.Saravanan
Additional Government Pleader

ORDER

The petitioners in all these writ petitions seek to quash the order passed by the fourth respondent cancelling the assignment granted to the petitioners and resuming their lands assigned to them.



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2. The facts common to all the writ petitions are as follows:-

2.1. The lands in question were assigned to the respective petitioners under the category of landless persons and the assignees have thereafter sold the property and the ownership of the property has also undergone change.

2.2. Meanwhile, the dispute arose between two Real Estate Agents and one of the Agents, namely N.Natrajan, had filed a writ petition in W.P.(MD) No.633 of 2008 seeking Mandamus to direct the respondents to resume the lands in question, as there is a violation of the revenue conditions. The Division Bench of this Court by an order dated 31.03.2008 declined to issue directions, but however instructed the Sub Collector, Periyakulam, to hold an enquiry and submit a report within 6 months.

2.3. It appears that the District Revenue Officer through his proceedings dated 20.10.2014 had directed the District Registrar not to register any documents pertaining to these lands in question. Thereafter, the Revenue Divisional Officer had completed his enquiry and filed a report dated 11.06.2016, wherein he had



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stated that above 58 persons had purchased the lands from the beneficiaries few decades ago and had constructed houses spending huge sums of money and are residing thereon.

2.4. The Revenue Divisional Officer further submitted that if at this stage these persons are evicted, it would result in disturbance to the peace and tranquility. Accepting the report, it was decided by the District Administration not to resume the lands. Aggrieved by this, the said Natarajan had filed yet another writ petition in W.P.(MD) No.21230 of 2013 seeking Mandamus directing the respondents 3 to 5 to implement the directions given by the second respondent.

2.5. This Court by an order dated 04.11.2016 accepting the decision of the District Administration had dismissed the above writ petition. Thereafter, despite the order of the Division Bench, the said Natarajan had lodged a complaint before the Commissioner to resume the lands based on which the impugned orders of cancelling the assignment have been passed. Challenging the same, these Writ Petitions have been filed.



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3. A counter has been filed by the third respondent, wherein it has been stated that the assignees had violated the conditions imposed in the assignment order, which clearly states that the lands cannot be sold or alienated for a period of 10 years, but could however be hypothecated for the purpose of security and that the lands have to be brought into cultivation within 3 years etc., The counter would also set out the details of the present occupants of the lands in question in number 83.

4. The counter would state that on the basis of the directions of the Division Bench, the Additional Chief Secretary/Commissioner of Land Administration, Government of Tamil Nadu, in his letter dated 25.06.2014 had directed the District Collector, Theni, to examine each case separately. It is further stated that after the order in W.P.(MD) No.21230 of 2016, a complaint was received from the said Natarajan and thereafter show cause notices were issued and the impugned orders came to be passed. The counter does not give any explanation as to how the Authorities have overstepped the orders passed by the Division Bench of this Court in W.P.(MD) No.21230 of 2016.



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5. Heard the learned counsel on either side.

6. Admittedly, the assignees have alienated the properties. In the first writ petition in W.P.(MD) No.633 of 2008 filed by the complainant, Natarajan, the Division Bench of this Court had clearly observed that they cannot issue Mandamus as sought for by the petitioner therein, namely to resume the lands, but it was disposed of with a direction to the Sub Collector, Periyakulam, to complete the enquiry proceedings, which has already been commenced and to pass appropriate orders.

7. Pursuant to the orders of this Court, it appears that the Revenue Divisional Officer had conducted a detailed enquiry and inspection and he had stated that the aforesaid 58 persons had purchased the properties from the beneficiaries and had constructed the houses and therefore, evicting them at this stage would cause law and order problem. The District Administration decided to accept the report of the Revenue Divisional Officer and decided not to resume the lands. This decision was challenged by the said Natarajan in W.P.(MD) No.21230 of 2016, where the relief that was claimed was to resume the lands. The Division



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Bench after considering the submissions on either side had passed the following order in W.P.(MD) No.12639 of 2021:-

"5. Yet another Writ Petition came to be filed in WP (MD) No. 21230 of 2016 and the above order and the decision that was taken by the Revenue Divisional Officer was recorded and this Writ Petition was dismissed on 04.11.2016.

6. It is clear from the above that the steps that were taken for resuming the lands were given up. Hence, the Sub Registrar cannot refuse to entertain the document on the ground that earlier, steps were taken for resuming the lands, which were assigned based on the complaint. The complaint itself has been closed and a decision has been taken to permit the occupiers of the land to continue with the occupation. In such view of the matter, the respective land owners must be allowed to deal with the property."

8. Therefore, the Division Bench of this Court had given its stamp of approval not to disturb the possession of the persons, who are in occupation of the properties in question by resuming the lands. That being the case, the



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complainant has once again filed the very same complaint before the Commissioner and show cause notice has also been issued to all the occupants and the impugned orders had come to be passed.

9. Once the Division Bench had accepted the earlier decision of the District Administration and held that the various purchasers should not be disturbed, the present action be initiated on the basis of the complaint of the petitioner who has suffered an order against him is *per se* misconceived. The Revenue Authorities have by passing the impugned orders sought to reopen the proceeding which has already been rejected by this Court. Further, by deciding to accept the earlier report of the Tahsildar, the Revenue Authorities have tacitly given their stamp of approval to the alienation. The Authorities have also failed to appreciate that the proceeding initiated by the said Natarajan appears to be motivated since he is described as the Real Estate Agent.

10. For the aforesaid reasons, these Writ Petitions stand allowed and all the impugned orders are set aside. The respondents shall not cancel the assignment or resume the lands belonging to the petitioners.



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No costs. Consequently, connected Miscellaneous Petitions are closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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23.10.2024

To

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Tahsildar,
Tirunelveli Taluk,
Tirunelveli District.



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P.T.ASHA, J.

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