



W.P(MD)No.12442 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.04.2024

CORAM :

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P(MD)No.12442 of 2017

and

W.M.P(MD)No.9594 of 2017

Muthaiah

: Petitioner

Vs.

- 1.The Principal Secretary and Commissioner
of Land Reformation Department,
Ezhilagam, Chepauk,
Chennai 600 005.
- 2.The District Collector,
Virudhunagar District,
Virudhunagar.
- 3.The Deputy Collector,
Land Reformation Unit,
Boodhan Board, Collectorate Campus,
Virudhunagar.
- 4.The Tahsildar,
Kariapatti Taluk Office,
Kariapatti,
Virudhunagar District.
- 5.The Deputy Tahsildar,
Land Reformation Unit,
Boodhan Board, Collectorate Campus,
Virudhunagar.

: Respondents



W.P(MD)No.12442 of 2017

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to issue original assignment deed based on the petitioner's representation, dated 28.04.2017 consequently, forbearing the respondents 2 and 4 from disturbing the petitioner's peaceful possession and enjoyment in Survey No.83/1A, S.Kallupatti Village, Kariapatti Taluk, Virudhunagar District within the time limit that may be fixed by this Court.

For Petitioner : Mr.A.D.Ganeshamoorthi
For Respondents : Mr.A.K.Manikkam,
Special Government Pleader

ORDER

This Writ Petition has been filed seeking issuance of Writ of Mandamus, directing the respondents to issue original assignment deed based on the petitioner's representation, dated 28.04.2017 and to forbear the respondents 2 and 4 from disturbing the petitioner's peaceful possession and enjoyment of the property in Survey No.83/1A, S.Kallupatti Village, Kariapatti Taluk, Virudhunagar District.

2. The case of the writ petitioner is that the petitioner and 9 other landless poor were given 1.60 acres each under the Tamil Nadu Boodan Board; that the petitioner and 9 other families have been cultivating and enjoying the said land in S.No.83/1A peacefully and without any hindrance,



W.P(MD)No.12442 of 2017

since 1965; that the Tamil Nadu Boodan Board and the Special Tahsildar (Grama Dhanam, Madurai) had allotted 3 cents of land to each family including the petitioner; that the petitioner and other 10 families have constructed houses and are residing there for the past 26 years; that the original assignment deed has not been given at that time; that the petitioner has sent a representation to the respondents on 28.08.2017, but the same was of no avail; that the respondents 2 and 4 came to the property on 23.06.2017 and directed the petitioner and others to vacate the land and hand over the same to the respondents 2 and 4 as the Government had proposed to construct a college in the said land and that therefore, the petitioner was constrained to file the present writ petition.

3. The second respondent/District Collector in the counter affidavit has stated that the land in S.No.83/1A was assigned to 10 landless poor people and each was provided 1.50 acres in the year 1980 and subsequently, in the year 1990 house site assignment was given to 25 persons each 4 cents including the petitioner; that among the ten assignees, 8 assignees were already dead and the writ petitioner and one other assignee are alive and that the entire extent in S.No.83/1 A stands in the name of Boodan Board till now.



W.P(MD)No.12442 of 2017

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4. It is the further defence of the respondents that the petitioner is keeping the said land vacant without cultivation and thereby violated the conditions of the assignment; that the writ petitioner has requested to issue original land distribution deed, but the acknowledgement, dated 08.10.1980 shows that he had received the land distribution deed, dated 08.10.1980 and two persons had witnessed the same; that the Government had decided to start a new Government Dental College at Virudhunagar District and requested to identify few locations with an extent of 10 acres of land at a distance of 30 kms from Madurai Medical College so as to attach the proposed Dental College with nearby Madurai Medical College; that as per the Tamil Nadu Boodan Yagna Act, the distributed land can be allotted to Government public purpose, if required; that the respondents 2 and 4 have neither issued any notice for eviction nor tried to acquire the land; that the petitioner has no title in the said land and is having enjoyment rights till his death and that the petitioner has no *locus standi* to file the case and the same is liable to be dismissed.

5. The learned counsel for the writ petitioner has relied the judgment of this Court in the case of ***Amutha Vs. Government of Tamil Nadu rep. by***



W.P(MD)No.12442 of 2017

the Secretary to Industries Department and others passed in **W.P.(MD)**

No.6083 of 2008, dated 26.06.2013, wherein, it has been observed as follows :

“9. In a similar and identical situation, this Court in the case of Special Officer, State Boodhan Board, Madurai v. Vellayammal and another ((2011) 5 MLJ 755), has held that unless conditions of assignments are violated, assignee's possession is secured and title of property will continue to be vested with assignee. For better appreciation, paragraph 13 thereof is extracted hereunder:

"13. The Land Distribution Deed under Ex.C.1 can be equated to assignment of land by Government to a landless person or under special category. In case of such assignment, the conditions prohibiting/restricting alienation and conditions regarding utility of the lands can be imposed. But such conditions are imposed only for the benefit of the assignee. A similar question arose before a Full Bench (Larger Bench) of Andhra Pradesh High Court consisting of seven Honourable Judges. The judgment of the Full Bench of the Andhra Pradesh High Court in Land Acquisition Officer-cum-R.D.O., Chevella Division, Hyderabad and others v. Mekala Pandu and others (LB) has been reported in 2004(3) CTC 19. After referring to various decisions of the Hon'ble Supreme Court as well as other High Courts, the Full Bench (Larger Bench) has expressed the view



that the restriction on the assignee of Government land to alienate the land assigned to him is not intended to curtail the ownership right of the assignee in assigned land and such restrictions are being put in the interest of the assignee himself based on sound public policy to meet current needs of the community. It has also observed that public policy does not remain static in any given society; that it varies from generation to generation and even in the same generation and that the restriction imposed on the assignee is not intended to curtail ownership rights of assignee in the assigned land."

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11. The above said view of mine is fortified by this Court in R.Abdul Jabbar v. The State of Tamil Nadu (1996 (2) CTC 719), wherein this Court has held thus in paragraph 15:

"15. It is plain that the Government need not acquire its own lands, and the Government was not competent in the proceedings under the Land Acquisition Act to put forward its own title to the properties sought to be acquired, denying compensation to the persons entitled, having issued notifications specifying the lands and the names of owners/occupiers/persons interested. Thus under the circumstances, I have no hesitation to hold that



W.P(MD)No.12442 of 2017

whenever the Government waives to avail or invoke the condition of the grant or assignment, that a grantee or assignee will surrender lands whenever required by the Government without claiming compensation, and initiates proceedings for compulsory acquisition of such lands under the provisions of the Land Acquisition Act, treating such lands as not belonging to itself, but to others, is under an obligation to pay compensation as provided in the Act. Viewed in any way, the petitioners are entitled to succeed."

6. The learned Special Government Pleader appearing for the State would submit that since the petitioner has only sought for considering his representation, the respondents may be directed to consider the petitioner's representation, dated 28.04.2017, within a period stipulated by this Court.

7. The learned counsel for the petitioner would also submit that the respondents may be directed to consider his representation and pass orders within short time to be stipulated by this Court.

8. Considering the facts and circumstances of the case and taking note of the limited prayer now sought for, without entering into the merits of the case, the respondents are directed to consider the petitioner's representation,



W.P(MD)No.12442 of 2017

dated 28.04.2017 and pass orders on merits and in accordance with law within a period of eight weeks from the date of receipt of copy of this order.

9. With the above direction, this Writ Petition is disposed of.

Consequently, connected Miscellaneous Petition is closed. No costs.

18.04.2024

NCC :yes/No
Index :yes/No
Internet:yes/No
das



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W.P(MD)No.12442 of 2017

To

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K.MURALI SHANKAR, J

DAS

Order made in
W.P(MD)No.12442 of 2017
and
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