

MDVP 209/
dismiss

27/7/12

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2012

CORAM

THE HONOURABLE MR. JUSTICE K. CHANDRU

W.P.Nos.8953, 8964 and 9011 of 2007

Girija

R.K.Raj Kumar

Rajammal

**... Petitioner in
W.P.No.8953 of 2007**

**... Petitioner in
W.P.No.8964 of 2007**

**... Petitioner in
W.P.No.9011 of 2007**

Vs.

- 1.The Commissioner,
Land Reforms,
Chepauk, Chennai-5.**
- 2.The Assistant Commissioner,
Office of the Assistant Commissioner,
Land Reforms, Brode.**
- 3.The Collector of Coimbatore,
Office of the Collector,
Coimbatore.**
- 4.The Special Revenue Tahsildar,
Land Reforms,
Thirupur, Coimbatore District.**
- 5.The Village Administrative Officer,
Veerapandi Village,
Thirupur, Coimbatore District.**
- 6.Veeran**
- 7.Subramani**

**... Respondents in
three writ petitions**

W.P.Nos.8953, 8964 and 9011 of 2007 are preferred under Article 226 of the Constitution of India praying for the issue of a writ of certiorari to call for the entire records in respect of the order passed by the second respondent bearing Na.Ka.No.2574/05/C2, dated 20.11.2006 received by the petitioners on 5.1.2007 in accordance to the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965 in respect of the reallocation of the land comprised in Survey

AR0004396

No.572/2 situated in Veerapandi village, Tirupur Taluk, Coimbatore District of an extent of acre 0.50 cents and insofar as the petitioners are concerned quash the same.

For Petitioner : Mr.A.Palaniappan

For Respondents : Mr.M.Dig Vijay Pandian, AGP

for RRI to 5(in all Wps)

Mr.N.E.A.Dinash for R-6

COMMON ORDER

These three writ petitions were filed by three different petitioners, challenging the order dated 20.11.2006 passed by the second respondent viz., Assistant Commissioner, Land Reforms, Brode in respect of the re-allotment of the land comprised in Survey No.572/2 situated in Veerapandi village, Tirupur Taluk, Coimbatore District and set aside the same insofar as the petitioners are concerned.

2. The writ petitions were admitted on 12.03.2007. Pending the writ petitions, an interim stay was granted. Subsequently, the interim stay was made absolute on 21.03.2012. As the three writ petitions challenge the same order, they were grouped together and a common order is passed.

3. On notice from this Court, a counter affidavit has been filed by the contesting 6th respondent. By the impugned order dated 20.11.2006, the Assistant Commissioner, Land Reforms, Brode revised the earlier order granting land in respect of Tamil Nadu Land Reforms (Disposal of Surplus Lands) Rule and allotted lands of 18.84 acres in respect of named 21 persons. It was stated that since land owners have filed writ petition in W.P.No.37057 of 2004 the order was issued, subject to the outcome of the said writ petition. The Assistant Commissioner also issued another order dated 20.11.2006 cancelling the allotment of land based upon the order of the Land Commissioner dated 09.10.2006.

4. The contention of the petitioners was that the petitioners are landless persons and they sought for allotment of excess land comprised in S.No.570/1A and other survey numbers in Veerapandi Village. In response to their request, the second respondent viz., the Assistant Commissioner of Land Reforms took action. He conducted enquiry on 17.03.2003 and based upon the same, he allotted the lands situated in Veerapandi Village to the extent of 6.18 % cents which was distributed to 8 applicants. The petitioners were also allotted land to an extent of 0.50 cents comprised in S.No.572/2 Veerapandi Village. Thereafter, they were also put in possession of the land and conditional patta was also granted in their favour and they have been paying necessary kist for the said land. All of a sudden, without any notice and

AR0004397

intimation, the second respondent had passed the impugned order cancelling the terms of allotment. As against the same, the 6th respondent preferred an appeal to the first respondent viz., the Commissioner for Land Reforms. The said appeal was allowed by an order dated 09.10.2006 and the earlier allotment made by the second respondent and re-allotment was cancelled. Lands which were allotted to the petitioners were allotted to respondents 6 and 7 and hence, they filed the present writ petitions.

5. It is seen from the records that the affected land owners preferred writ petition as against the declaration of surplus lands in W.P.No.37057 of 2004. That writ petition came to be allowed by this Court on 13.12.2006. This Court held that the procedure adopted for identifying surplus land was not clearly followed and therefore, without notice to the land owners, the notification could not have been issued. It was pursuant to the said direction, the order was passed revising the extent of surplus land. The contesting respondents who were original assignees as early as June 1983 and the lands have been entrusted as early as 05.11.2001 by the Assistant Commissioner. Thereafter, when it was sought to be cancelled, they have also approached the Chief Ministers' Grievance Cell against the order of Assistant Commissioner dated 05.11.2001 and assigning the same in favour of writ petitioners. The matter was taken by the Land Commissioner and by proceedings dated 09.10.2006, the Land Commissioner held that cancellation order and the subsequent re-assignment to ineligible persons was totally incorrect and the proceedings of the Assistant Commissioner dated 05.11.2001 and 18.03.2011 was cancelled and it was directed that the available lands should be equally divided among the original allottees. However, it was also made clear that it was without prejudice to the outcome of the writ petition in W.P.No.37057 of 2004 and the Assistant Commissioner was directed to pass revised orders accordingly. It was pursuant to the direction issued by the Commissioner for Land Reforms, the impugned order came to be passed.

6. It is not clear as to how the petitioners have got right to get allotment when surplus lands were originally assigned in favour of the contesting respondents. If for any reason the total extent of surplus land gets diminished, then the same allottees will have to get reduced allotment and the question of re-doing the exercise and bringing new persons for allotment is not contemplated under the Act. The petitioners have ingeniously got the Assistant Commissioner to allot the land as if it was the original proceedings. On the other hand, the proceedings initiated was the continuation of the old proceedings and therefore, excepting the original allottees, no other person can get the diminished share in case the original allotment gets reduced. The order of the Land Commissioner and the consequential order of the Assistant Commissioner in restoring the possession in favour of the contesting respondents cannot be found fault with.

AR0004398

7. The writ petitions are misconceived and bereft of legal reasons. Accordingly, all the writ petitions will stand dismissed.

No costs.

**sd/-
Assistant Registrar**

/True Copy/

**P R m 23-5-2012
Sub Assistant Registrar**

**svki
To**

- 1. The Commissioner,
Land Reforms, Chepauk, Chennai-5.**
- 2. The Assistant Commissioner,
Office of the Assistant Commissioner,
Land Reforms, Erode.**
- 3. The Collector of Coimbatore,
Office of the Collector, Coimbatore.**
- 4. The Special Revenue Tahsildar,
Land Reforms,
Thirupur, Coimbatore District.**
- 5. The Village Administrative Officer,
Veerapandi Village,
Thirupur, Coimbatore District.**

+3 CCs to Mr. A. Palaniappan, Advocate, SR.No. 45723 to 45725

+3 CCs to Mr. V. Nicholas, Advocate, SR.No. 44970 to 44972

+1 CC to Government Pleader, 45541

**ORDER IN
W. P. Nos. 8953, 8964 and
9011 of 2007**

VD(CO)

SRA 13/8/2012

AR0004399