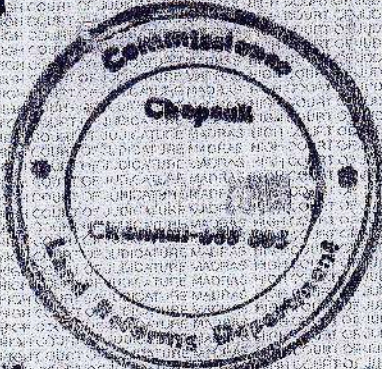




IN THE HIGH COURT OF JUDICATURE AT MADRAS

CAV ON 29/07/2015

DATED: 12/01/2016

CORAM

THE HONOURABLE MR. JUSTICE C.S. KARNAN

W.P.No.30793 of 2013

and

M.P.No.2 of 2013

1.Santhosh Kumar
2.Soundararajan

... Petitioners

Vs.

1.The Land Commissioner,
Chepauk,
Chennai-600 005.

2.The Assistant Commissioner, (Land Reforms),
Brode Jawan Bhavan Building,
Gandhiji Road,
Brode.

3.The Tahsildar,
Sulur Taluk,
Coimbatore District.

Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned proceedings of the second respondent vide Na.Ka.No.1721/2008/C2, dated 21.10.2013 and the consequential order of third respondent vide Na.Ka.No.7908/2013/A2, dated Nil-10-2013 and quash the same and to direct the second and third respondents to restore the records in the name of the petitioners in respect of S.Nos.73, 74 and 75 in Appanaickanpatti, Sulur Taluk, Coimbatore District forthwith.

For Petitioners : Mr.V.Manohar
For Respondents : Mr.M.S.Ramesh

Addl. Govt. Pleader for R1 to R3

by 001194

ORDER

The petitioners submit that the allotment of lands under the common category as per the procedure followed under the Revenue Standing order in their favour took place in the year 1974 and they are in continuous possession. In the said land, at the instance of the strangers who had no right or interest have tenuously claimed that their forefathers had right in the same unmindful of the proceeding under the Land Reforms Act. Based on the same at the instance of the business rival group instigation had influenced the revenue authorities through their political and money power to interfere in the right of them after the lapse of 39 years of the original allotments. The authorities also without taking into consideration of the merits and demerits including the limitation provided under the Land Reforms Act had passed an erroneous order as against them. Against which, the appeal was duly filed before the Government and the same is pending to the knowledge of the respondents herein.

2. The petitioners further submit that in the meanwhile at an instigation, third persons have come forward to file a writ petition in W.P.No.8264 of 2013 before this Court just to pressurize the issue as against the authorities from acting on fair and just manner. The said writ petition was entertained due to the suppression and misleading facts and the same is being contested by them by filing appropriate petition before this Court. In the meanwhile, to override the situation controlled and the likelihood of the Government of Tamil Nadu to take appropriate decision, the authorities under the Revenue Department to suppress the truth and to justify their high handed attempts on the property of them had indulged in connived and colluded acts. Thereby, they have tampered with the revenue records and the relevant entries in contrary to the truth and without waiting for the outcome of the pending proceeding before the Government and the writ filed before this Court had interfered with the entries in favour of them. The second respondent gone in his out of way to depute a person through the uncalled for order sent through a messenger to re-write the entries immediately and to revert such records to him in the impugned proceeding. The said extraneous attempt of the second respondent is not only strange and unheard of in the history of the Revenue Department. The said decision of the second respondent is not only contrary to the pending proceeding and amount to interfering in the judicial administration of the issue which is pending for adjudication is well aware by him. The entire proceeding was done behind their back without any notice in this regard or giving any opportunity to them is the fact revealed in the proceeding itself. Though they are

by 00119

aggrieved by the said order, the second and third respondents had ensured that they are not being informed about the same. Hence, the said proceeding of the second and third respondents vide Na.Ka.No.1721/2008/C2, dated 21.01.2013 of the second and third respondents, quash the same and to direct the respondents 2 and 3 to restore the records in the name of the petition in respect of S.Nos.73, 74, 75 in Appanaickenpatti, Sular Taluk, Coimbatore District is not only contrary to the rules and procedure established under the law and also amount to violation of the natural justice in this regard. More so, when the matter is contested in various levels is well within the knowledge of the respondents herein.

3. The petitioners further submit that the respondents herein have suppressed the facts behind the claim of the third person and the developments. Under these circumstances, it become necessary and they have every legal right to put forth the case pertaining to the subject matter. The appropriate explanations presented when they have participated in the proceedings before Principal Secretary cum Commissioner of Land Reforms, Chepauk have much bearing on this issue cannot be denied by any one. When the said order of the first respondent was challenged in an appeal and pending before the Secretary to Government for adjudication. It is not appropriate to circumvent the possible and probable decisions in their favour in this regard. The ill motive local person sets up the persons to petition after petition with an ulterior objective and the respondents are dancing to the tune of such persons for their own reasons which can be obviously presumable by any one. The petitioners further submit that the lands referred in Government Order dated 11.02.1974 vide No.671 was allowed to the eligible persons by following the procedures contemplated under the revenue standing order. At the time of the assignment, the eligibility criteria contemplated for such assignment was duly considered and the said assignments were made in their favour. Thereafter, it was continuously enjoyed as per the terms of assignment without any interference from any quarter. The petitioners further submit that in the last year one ill motive and ill disposed person by name Mr.Selvaraj who happen to be a disgruntled partner of his relative have falsely submitted a memorandum to the authorities. Taking advantage of his influence in politics have manipulated the situation against themselves. Though the said attitude of the said Selvaraj was against Mr.Parumalsamy, their lands were targeted due to the relationship with the said Parumalsamy. Despite the fact that there is a clear legal embargo to re-open the issue after the period of 5 years from the date of allotment, the Commissioner for Land Reforms have confronted the petition into the suo-moto proceeding to pass adverse order against which the appeal before the Government was presented as per the procedure. The

by 00119

Government also through the acknowledgment dated 09.05.2013 have acknowledged the pendency of the appeal before the Government. After coming to know of the development, the petitioners who are nowhere in the picture for more than 30 years and legal heir of some unknown persons stated to have claimed the original allotment of the year 1965 have come to this Court on the false pretext. Despite the due cancellation as against these petitioners as early as in the year 1965 itself and the same was in question all along to allow the revenue authorities to reassign the lands to the other eligible persons viz., themselves in the year 1974. When all these developments were not questioned for the past despite the knowledge, now at the instance of the above said Selvaraj have appraised this Court without disclosing the past history. The said persons have no vested right to claim anything under any of the right or claim, under these circumstances, in entertaining of the request of those strangers will hamper the due process contemplated under the Rules and Regulations governing the issue. More so, when the authorities will have their impediment in deciding the issue if this impugned order vide Na.Ke.No.1721/2008/C2, dated 21.10.2013 of the second and third respondents to quash the same and to direct the respondents 2 and 3 to restore the records in the name of the petitioners in respect of S.Nos.73, 74, 75 in Appanaickanpatti, Sulur Taluk, Coimbatore District is allowed stand further. Under the said guise of the impugned proceedings, the possession and the valuable rights are likely to be disturbed taking advantage of the order. Hence, the petitioners have filed the above writ petition.

4. The learned counsel Mr.V.Manohar, appearing for the petitioner submits that the first petitioner is an assignee and the second petitioner is also similarly placed and got allotted the land referred in respect of him in the same proceedings.

5. The said allotment was made under the Revenue Standing Order and confirmed to be in enjoyment of themselves. In the said land, at the instances of the strangers who had no right or interest, they have claimed that their forefathers had right in the same unmindful of the proceedings under the Land Reforms Act. The business rival group instigation had influenced the revenue authorities through their political and money power to interfere in the right of them after a lapse of 39 years after the date of allotment. The authorities, without taking into consideration of the merits and demerits including the limitation provided under the Land Reforms Act, had passed an erroneous order. Against the said order, appeal was filed before the Government which is pending enquiry.

by 0011950

6. The learned counsel further submits that in the meanwhile, at the instigation of third persons have come forward to file a writ petition in W.P.No.8264 of 2013, before this Court just to pressurize the issue as against the authorities from acting in a fair and just manner. The said writ petition was entertained due to the suppression and misleading of facts. The decision of the second respondent is not only contrary to the pending proceedings but amounts to interfering in the judicial administration of the issue which is pending for adjudication. The petitioners are not being informed by way of any notice and have not been given an opportunity and the proceedings had been passed. Further, the lands referred in Government Order dated 11.02.1974 was allowed to the eligible persons by following the procedures contemplated under the Revenue Standing Order. At the time of assignment, the eligibility criteria contemplated for such assignment was duly considered and the said assignments were made in their favour. Thereafter, it was continuously enjoyed as per the terms of assignment without any interference from any quarters. Therefore, the impugned order passed by the second and third respondents is not valid.

7. The learned Additional Government Pleader Mr.M.S.Ramesh, appearing for the respondents submits that the first and second respondents have passed orders to cancel the assignment of land to the petitioners. Further, on the basis of the first and second respondents assignment cancellation order, the records namely 'A' register, Village Chitts and Adangal have been changed as Government Poramboke surplus lands. One Salvaraj filed a case before the first respondent stating that the assignment order dated 14.08.2002 was passed under misrepresentation and fraud. The petitioners are rich persons and the same was confirmed after getting report from the Tehsilder, Coimbatore (North). As such, the petitioners are not eligible to receive assignment from the authorities. Hence, the impugned order passed by the first respondent is suitable for execution. Accordingly, the third respondent herein executed the said order and changed the revenue records.

8. On considering the facts and circumstances of the case and arguments advanced by the learned counsels on either side and on perusing the typed set of papers, it is seen from the records that the petitioners are having immovable properties and the particulars have been mentioned in detail in the first respondent's order. Therefore, the cancellation order and subsequent orders are suitable for execution. Hence, the above writ petition does not generate sufficient force to allow it.

by 001

9. In the result, the above writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

Rauer
(23)

To
1. The Land Commissioner,
Chepauk,
Chennai-600 005.

2. The Assistant Commissioner, (Land Reforms),
Brode Jawan Bhavan Building,
Gandhiji Road,
Erode.

3. The Tehsildar,
Sulur Taluk,
Coimbatore District.

+lcc to Mr. V. Manohar, Advocate sr.2487

ca(co)
srg(09/03/2016)

W.F.No.30793 of 2013
M.P.No.2 of 2013

by 00119