

(2011) 10 MAD CK 0098

Madras High Court

Case No: Contempt Petition No. 665 of 2011

A. Kumarasamy

APPELLANT

Vs

Hemant Kumar Sinha,
Special Commissioner
and Commissioner for
Land Administration,
Ezhilagam, Chepauk,
Chennai-600005, S.
Sivarasu, District
Revenue Officer,
Chingleput at
Kancheepuram and
T.R. Mallika, Tahsildar,
Chingleput

RESPONDENT

Date of Decision: Oct. 18, 2011

Hon'ble Judges: K. Chandru, J

Bench: Single Bench

Advocate: M. Vaidyanathan, for the Appellant; V. Subbiah, Spl. G.P., for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Honourable Mr. Justice K. Chandru

1. The petitioner has come forward to file the present writ petition seeking to punish the respondents for having willfully disobeyed the order passed by this Court W.P. No. 473 of 1988, dated 4.9.2000. By the aforesaid order, this Court held that the petitioner was entitled for assignment of land, but on payment of market value and that the District Revenue Officer cannot proceed as if the petitioner was not entitled for assignment. The D.R.O was directed to proceed further to assign the land afresh. It is not clear as to why

the petitioner having allegedly secured an order in his favour on 4.9.2000 came to file contempt after a period of 11 years. In any event, when the contempt petition came up on 18.4.2011, the learned Government Advocate was directed to get instructions from the respondents.

2. A proceedings of the D.R.O., dated 26.8.2011 was produced and a copy of which has been addressed to the petitioner, in which it is shown that the petitioner's right to get assignment in respect of Anadheenam land was illegal and without authority. The land is required for the Government and for public purpose. Therefore, the petitioner's request for assignment of 5 acres of land in S. No. 183/1 in Thalambur village cannot be considered.

3. It is seen from the records that the petitioner, who was the Personal Assistant to the Director of Adi Dravidar and Tribal Welfare Department, got the land assigned in S. No. 183/1 in Thalambur Village, which is classified as Anadheenam land, on land cost of Rs. 100/- per cent by the Tahsildar proceedings, dated 09.05.1967. The assignment was cancelled on 29.4.1980. The land was kept waste till date. The assignee had not engaged in personal cultivation and it is not bonafide one and that it was secured by abuse of office. As against the cancellation, the petitioner filed an appeal before the Commissioner for Land Administration. The Commissioner by an order dated 4.9.1984 had set aside the order passed by the D.R.O and held that the cancellation was not valid. The petitioner was directed to approach the D.R.O to decide the matter. It is at this juncture, he had filed a writ petition before this Court in W.P. No. 7796 of 1987. this Court by an order dated 8.10.1987 had directed the D.R.O to supply the copy of the order passed by him subsequent to the Commissioner order dated 4.9.1984 and that the assignee was given liberty to approach the higher authority. As per the order of this Court, the D.R.O, by his proceedings dated 16.11.1987 held that assignment in belt area can be given only by the Government and the assignment given by the Tahsildar, Chengalpet, dated 9.5.1967 was not valid and hence the assignment was cancelled.

4. Once again, the petitioner filed a writ petition being W.P. No. 473 of 1988 before this Court and that writ petition was dismissed on 20.01.1988 at the admission stage. He was directed to approach the Commissioner for Land Administration and thereafter, a revision before the Government. He filed a writ appeal being W.A. No. 557 of 1988 and the writ appeal was allowed by an order dated 21.1.1991 and the main writ petition was restored for disposal on merits. That restored writ petition being W.P. No. 473 of 1988 was disposed of on 4.9.2000 directing the D.R.O to proceed to assign the land afresh. Pursuant to the direction, the D.R.O sent a proposal on 3.8.2009 through the Commissioner to the Government. It was stated that the land was classified as Punjai Anadeenam and assignment can be made in the belt area only by the Government. It is at this juncture, the petitioner has filed the contempt petition before this Court.

5. The Principal Secretary, Land Administration by his letter dated 23.8.2011 had directed the D.R.O to pass appropriate orders as per the direction of this Court. It is at this stage,

an order came to be passed by the D.R.O dated 26.8.2011. In that order, it was stated as follows:

The Thalambur village is not a ryotwari village, and it is "Shrotriam" village, inclusive of anatheenam poramboke, lands and un classified fields which come under the purview of Tamil Nadu Estate (Abolition & Conversion into ryotwari) Act 1948.

- 1) In G.O.Ms. No. 1135 Revenue Department, dated : 17.03.1962, the Government imposed a ban of assignment of the lands within areas with radius of 20 miles and as in the list the village of Thalambur is included and therefore no assignment could be granted.
- 2) As the impugned land is classified as Anadheenam land, it is not eligible for assignment under R.S.O.15.
- 3) The land is lying waste without cultivation.
- 4) Now the land is fully surrounded by residential area, as such it is not fit for land assignment.
- 5) At the time of seeking assignment in the year 1967, Thiru.A.Kumarasamy was a Government Servant working as Personal Assistant to Director of Adi-Dravidar and Tribal Welfare Department, Chennai and the assignment was not bonafide one and secured by abuse of his official position and now he is a pensioner.
- 6) The petitioner Thiru A.Kumarasamy is residing at 17, Second Main Road, NGO Colony, Adambakkam, Chennai 600 088 which is far away from the land claimed for assignment.
- 7) The present market value of the land requested for assignment of 5.00 acres is roughly Rs. 34 Crores.

The initial assignment given to the petitioner Thiru A.Kumarasamy by the Tahsildar, Chengalpattu was illegal and without authority. The land is "Anadheenam" till date in Village and Taluk Accounts and there is paucity of land for Government and public purpose. For all the above reasons the request of the petitioner for assignment of 5.00 acres of land in S. No. 183/1 Thalambur Village cannot be considered. Hence it is rejected.

6. In support of the said stand, a copy of the Government Order showing Chennai Belt area, including number of villages in the annexure to the G.O is produced. The village Thalambur comes very much in the belt area for which no assignment can be made by the Government. Further, it is a clear case where the petitioner had abused his office and when he was holding high position in the Government, he is not eligible for any assignment. Even though he might have been subsequently retired, that does not change

the position. Inasmuch as assignment conditions have not been complied with, this Court cannot give any direction to the respondents to assign the particular land.

7. In any event, this Court by using contempt court cannot be a party to be largesse on the petitioner. this Court is satisfied with the explanation offered by the respondents for not complying with the earlier order. In the counter affidavit, dated Nil (August, 2011), the Principal Secretary had explained the circumstances in which such assignment can never been granted and that the Revenue Standing Order 15 is only to assign the land to landless and poor persons who are likely to engage themselves in direct cultivation. The petitioner by series of proceedings initiated before this Court had secured an illegal order and that using contempt as an execution machinery, he is trying to intimidate the respondents for assigning the land. this Court do not find any contempt is made out to punish the respondents.

8. In the light of the above, the contempt petition will stand dismissed. No costs.