
(1990) 07 MAD CK 0009
In the Madras High Court
Case No : Writ Petition No. 8063 of 1990

D. Thomas

APPELLANT

Vs

The Government of Tamil Nadu and Others

RESPONDENT

Date of Decision : 05-07-1990

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1990) 07 MAD CK 0009

Hon'ble Judges : S. Ramalingam, J

Bench : Single Bench

Advocate : K. Subramaniam, for the Appellant; N. Bhaskaran, G.A., for the Respondent

Judgement

S. Ramalingam, J.—The petitioner is an ex-Serviceman. One Krishna Naidu, son of Sanjeevi Naidu of Kammanur Village in Kodaikanal

Taluk was in possession of an extent of 3 acres of land in S. No. 430/3 of Manalur Village, Kannivadi Zamin Hills, Dindigul Taluk. He granted a

lease of this property to the petitioner on 17-9-1970 and the lease is being renewed periodically. Subsequently the petitioner claims to have

purchased this land. He is raising crops in this land as well as the land assigned to him measuring a total extent of 3.12 hectares. The petitioner

applied to the Government for grant of patta for the lands in his occupation in S.N. 430/3 of Manalur Village. The said application is still pending.

The petitioner claims that in G.O. Ms. No. 1385, Forests and Fisheries Department, dated 21-12-1979 the Government had also passed orders

for leasing out the said land to him on the usual conditions. However, the Forest Department is claiming that this land which is in the occupation of

the petitioner belongs to the Forests Department and the Revenue Department

has no jurisdiction to allow private persons like the petitioner to occupy or cultivate the lands. When persons similar to the petitioner were threatened by the Forest Department, the Tamil Nadu Vivasayigal Sangam, Dindigul Taluk, filed W.P. No. 10578 of 1988 in this Court praying for the issue of the writ of mandamas directing the respondents (the Government) to assign lands on the strength of G.O. Ms. No. 3150. Forests & Fisheries Department dated 4-12-1971 and to restrain the Forest Department from interfering with the possession of the members of the said Sangam till the disposal of the writ petition. Interim injunction appears to have been obtained by the Sangam in W.M.P. No. 15524 of 1988 in W.P. No. 10578 of 1988 on 26-9-1988. The petitioner states that he is a member of the said Sangam.

2. The petitioner has made the following averment in paragraph 8 of the affidavit filed in support of the writ petition.

... - In spite of very clear directives issued by the Government, the 4th respondent's officials are frequently trying to interfere with my possession. In fact, about 2 weeks back, a large number of officials of the 4th respondent came to my lands and asked me to vacate the premises.

Even when I showed them the order passed by this Hon''ble Court and also the letter issued by the Government directing the Forest Department not to interfere with my possession and enjoyment of the lands, it did not satisfy them and they insisted on my vacating the premises.

3. It is in these circumstances, the petitioner has approached this Court for the issue of a writ of mandamus directing the respondents, namely, the

State Government and the Collector to assign the lands in S. No. 430/3 of Manalur Village. Kannivadi Zamin Hills, Dindigul Taluk, of an extent of

3.12 hectares which the petitioner claims to be cultivating in accordance with G.O. Ms. No. 3150, Forests and Fisheries Department, dated 4-12-

1971. A writ of mandamus directing the Government to assign a particular land to the petitioner cannot be issued. Assignment of land is not

governed by any statutory provisions excepting perhaps by the Crown Grants Act. There is no enforceable right vested in the petitioner which can

be compelled to be enforced by issue of a writ mandamus in proceedings under Art.226 of the Constitution. In this view the writ petition is liable to

be dismissed, not on merits but considering the scope of the prayer asked for in

the writ petition. However, it is made clear that the respondents are bound to consider the claims of the petitioner who is an ex-Serviceman for the assignment of the land in question on the basis of the guidelines which the Government itself has issued in G.O.Ms. No. 3150, Forests and Fisheries Department dated 4-12-1971 and the connected orders in that behalf, An application for assignment has already been made by the petitioner and it is stated to be pending. Therefore, orders on that applications may be made by the respondents expeditiously for which the petitioner can approach the Government with a reminder along with a copy of the application submitted by him earlier for assignment sent by Registered Post Acknowledgement Due. It is made clear that neither the fourth nor the fourth nor the fifth respondent nor the officials of the Forest Department can interfere with the possession of the petitioner of the land in question except by recourse to law, either under the provisions of the laws governing the Forests or under the Land Encroachment Act, 1905 or such other laws as may be applicable. Respondents 4 and 5 are restrained from taking the law into their own hands and forcibly evicting the petitioner without recourse to law. The writ petition is ordered on the above terms. No costs.