
(2013) 04 MAD CK 0201

In the Madras High Court

Case No : Writ Petition No. 9754 of 2003

R. Kandasamy

APPELLANT

Vs

State of Tamil Nadu and Others

RESPONDENT

Date of Decision : 04-04-2013

Acts Referred:

Citation : (2013) 4 MLJ 357

Hon'ble Judges : A. Arumughaswamy, J

Bench : Single Bench

Advocate : Muthumani Doraisami, for the Appellant; Arvind Pandian, Additional Advocate General assisted by R. Lakshminarayanan, Additional Government Pleader, for the Respondent

Judgement

A. Arumughaswamy, J.—The petitioner is the owner of the lands in S. Nos. 169/1, 169/2 and other Survey Numbers in Somayapalayam Village, Coimbatore and some extent of poramboke land is found adjacent to his patta land. The Poramboke land in both the above mentioned Survey Numbers lies in the middle of his patta land and even one portion was surrounded by Boluvambatti Forest and he is in possession of the Poramboke land for the past 35 years. It is further averred that "B" memo notices have been issued to him for all these years for that land and he has paid the charges for being in possession and cultivating the same. While so, on 19.1.1998, the petitioner has made an application to the 2nd respondent seeking to grant lease of the Poramboke Land to him as he has incurred huge expenditure for developing the same. The 1st respondent issued orders in G.O.Ms. No. 94 dated 22.2.2002 for grant of lease to him in respect of 4.73 acres in S. No. 172/1A and 1.26 acres in S. No. 168 for a period of three years i.e., the lease period commences from 22.2.2002 initially for a period of three years and the same comes to an end only on 22.2.2005 which can be renewed thereafter. The lease amount for a year comes to Rs. 9393/- and the 3rd respondent shall execute the lease deed for the same.

2. But, to the shock and surprise of the petitioner, the 3rd respondent by his

proceedings dated 9.10.2002 issued orders directing the petitioner to pay the lease amount of Rs. 28,179/- for a period of three years commencing from 1998 to 2000 and further stated that the lease period has expired on 31.12.2000 and also advised him to file a petition for extension of lease period beyond 1.1.2001. Immediately, the petitioner made an application to the 1st respondent on 28.11.2002 stating that lease was granted to him only on 22.2.2002 for a period of 3 years. But the 3rd respondent by his proceedings dated 13.3.2003 issued orders stating that if the lease amount of Rs. 28,129/- for the period commencing from 1.1.1998 to 31.12.2000 is not paid, the lease granted in favour of the petitioner will be cancelled and he will be evicted from the said land. Aggrieved over the same, the petitioner is before this Court with this Writ Petition.

3. Learned senior counsel appearing for the petitioner would contend that the petitioner has been in possession of the Poramboke land-in-question for more than 35 years and he has also spent Rs. 6 Lakhs to make the land suitable for cultivation. The learned senior counsel would further contend that "B" memo notices have been issued to him for all these years. The learned senior counsel would also contend that the 1st respondent issued orders in G.O. Ms. No. 94 dated 22.2.2002 granting lease to him in respect of 4.73 acres in S. No. 172/1A and 1.26 acres in S. No. 168 for a period of three years commencing from 22.2.2002 till 22.2.2005. Under such circumstances, the order of the 3rd respondent is liable to be quashed.

4. Mr. Arvind Pandian, learned Additional Advocate General appearing for the respondents would contend that the lease period which is under challenge is already over. The learned Additional Advocate General would further contend that the disputed poramboke land is a water body. Hence, the lease could not be granted for the subsequent years and only on the strength of the interim order passed by this Court, he is in possession of the same. Therefore, the present Writ Petition has to be dismissed.

5. Heard the rival submissions made on either side and I have also perused the materials available on record carefully.

6. A close scrutiny of the entire records would go to show that the petitioner is in possession of the poramboke land-in-question which lies in the middle of his patta lands in Somayapalayam Village, Coimbatore prior to the year 1998 and he has spent amounts to develop the same and at present, fruit yielding trees are there. Further, it is seen that the petitioner has filed an application for grant of lease in respect of that Poramboke Land to the 1st respondent, who in turn, issued orders in G.O. Ms. No. 94 dated 22.2.2002 granting lease to him in respect of 4.73 acres in S. No. 172/1A and 1.26 acres in S. No. 168 for a period of three years from 22.2.2002 which expired on 21.2.2005.

7. When things stood thus, the 3rd respondent by his proceedings dated 13.3.2003 issued orders directing the petitioner to pay the lease amount of Rs.

28,129/- for the period commencing from 1.1.1998 to 31.12.2000, and in case of failure, the lease will be cancelled and he will be evicted from the said land. It appears that immediately, the petitioner rushed to this Court by filing the present Writ Petition and also got an interim order of stay of the operation of the orders of the 3rd respondent herein.

8. At this stage, the learned senior counsel appearing for the petitioner would submit that the petitioner is ready to make payment of Rs. 28,129/- for every three years in respect of 4.73 acres in S. No. 172/1A and 1.26 acres in S. No. 168 starting from 1.1.1998 till the date. He would further submit that if there is any difference in the said amount, the petitioner will also pay the same within a month from the date of receipt of a copy of this Order.

9. At this stage, it is pertinent to note that the petitioner has submitted a representation dated 1.4.2005 in this regard to the 1st respondent for which the 2nd respondent has sent a letter dated 4.4.2005 acknowledging the same. But, it appears that the said representation is still pending with the 2nd respondent.

10. In view of all the above, the respondents are directed to dispose of the application of the petitioner dated 1.4.2005 after hearing him in accordance with law. It is open to the respondents to recover the difference of lease amount for the period from 23.2.2005 to till date after fixing and informing the same to the Writ Petitioner. At the same time, the petitioner is directed to pay the amount for the period from 1.1.98 till February, 2002 in two weeks from the date of receipt of a copy of this Order. The petitioner has also agreed to pay the difference of lease amount, if any, for the period from 23.2.2005 to till date in four weeks on information from the respondents. If the petitioner is so aggrieved in respect of the same, he is at liberty to agitate the same in a separate proceedings after deposit. It is also made it clear that until the disposal of the application dated 1.4.2005 by the respondents, the possession of the petitioner shall not be disturbed by the respondents. With the above observation, the writ petition is disposed of. No costs.