

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Monday, the Seventh day of December Two Thousand and Twenty

PRESENT

**The Hon`ble Mr.Justice N.KIRUBAKARAN
and
The Hon`ble Mr.Justice B.PUGALENDHI**

WP (MD) No.17677 of 2020

MUTHAIAH

... PETITIONER

Vs

1. THE PRINCIPAL SECRETARY TO GOVERNMENT OF TAMIL NADU,
DEPARTMENT OF HOME,
SECRETARIATE, CHENNAI.
- 2 THE PRINCIPAL SECRETARY TO GOVERNMENT OF TAMIL NADU,
DEPARTMENT OF LAW, SECRETARIATE, CHENNAI.
- 3 THE DIRECTOR GENERAL OF POLICE, CHENNAI.
- 4 S.RAVI
- 5 KALAISELVI
- 6 S.SELVAM
- 7 K.PERIYASAMY

... RESPONDENTS

Writ Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to issue a writ or order or direction in the nature of WRIT OF MANDAMUS to direct the 1st respondent to ensure that the rights of the victims of land grabbing offences were protected by special enactment as pass in various states.

ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.P.GANAPATHI SUBRAMANIAN, Advocate for the petitioner and of Mr.M.MUTHUGEETHAIYAN, Special Government Pleader taking notice on behalf of the Respondents 1 to 3, the court made the following order:-

(Order of the Court was made by N.KIRUBAKARAN, J.)

The issue brought before this Court really is of public importance. There is a steep increase in the offences relating to

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the properties, especially, Land Grabbing for the past three decades, due to high rocketing of prices of lands and properties. Many Land Grabbers with the help of disgruntled elements in Police Force, muscle power and political power are encroaching upon the properties of innocent persons and enjoying the same illegally violating the property rights of the owners, which is a constitutional right under Article 300-A of the Constitution.

2. Though the State Government passed G.O.(Ms)No.423, Home (Police-XI) Department, dated 28.07.2011, immediately after the Election in 2011, ordering the formation of 36 Anti-Land Grabbing Special Cells in Tamil Nadu to deal with Land Grabbing cases and G.O.(Ms)No.451, Home (Police-XI) Department, dated 11.08.2011, constituting Special Courts in certain Districts to exclusively conduct trial of Land Grabbing cases under the Code of Criminal Procedure, the said Government Orders were quashed by a Division Bench of this Court in **R.Thamaraiselvan v. Government of Tamil Nadu, Represented by the Chief Secretary to Government, Secretariat, Chennai - 600 009 and others** reported in 2015 (2) MLJ 641 and the matter is pending before the Hon'ble Supreme Court. While quashing the above said Government Orders, the Division Bench of this Court has observed as follows:-

"50. In the result, all the writ petitions viz., W.P.Nos.18872, 21126, 25876, 25877, 26773, 26883, 27215, 27216, 27436, 27502, 27503, 27504, 27505 of 2011 and W.P.Nos.8227, 8261, 10185, 10198, 10775, 25834, 26956, 26957, 28060 of 2012, 4476/2014, 24925/2013, 28413/2014, 20481/2014 and W.P(MD). No.17926 of 2014 are allowed and G.O.(Ms).No.423, Home (Police XI) Department dated 28.07.2011 is quashed. W.P.Nos.31673 of 2014 is allowed and G.O.(Ms)No.423, Home (Police XI) Department dated 28.07.2011 and G.O.Ms.No.451, Home (Court III) Department dated 11.08.2011 are quashed. The State Government is at liberty to bring any appropriate legislation on the lines of A.P. Land Grabbing (Prohibition) Act, 1982 or better legislations dehors the result of these writ petitions. No costs. Consequently, connected miscellaneous petitions are closed."

3. The petitioner has also highlighted similar Acts passed by the States of Andhra Pradesh, Karnataka, Odisha and Gujarat, prohibiting the land grabbers.

4. When the Division Bench of this Court highlighted the necessity for having a suitable Legislation on the lines of A.P. Land Grabbing (Prohibition) Act, 1982 or better Legislations, the suggestion given by the Division Bench of this Court should have been considered very seriously and the issue could have been

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addressed by a suitable Legislation. However, half-a-decade has gone after the order passed by the Division Bench of this Court i.e., from 10.02.2015. If the Government is so interested, in the next Assembly Session or by a Special Session, it can pass an appropriate Act to prevent Land Grabbing and protect the interest of property/land owners.

5.This Court can take judicial notice of the fact that office bearers of many political parties and communal organizations along with some black-sheeps in the Police Force as well as in the administration, are indulging in Land Grabbing, violating the rights of innocent Citizens. Here is a glaring case, in which, one victim viz., Muthaiah, aged about 90 years, has come before this Court alleging that his land has been grabbed in the year 2008 by way of fabricated documents, which compelled the petitioner to file a Suit in O.S.No.35 of 2016, before the Subordinate Court, Thuraiyur, Trichy District and a complaint before the Judicial Magistrate Court, Thuraiyur, Trichy District, in C.C.No.2305 of 2014.

6.If one's land or property is grabbed, not only the right of the owner is violated, but also criminal case and civil case are filed. Because of that, already stressed Police Force and the Court, wherein the arrears are mounting, are unnecessarily burdened due to filing of new cases. To avoid these types of cases, the better way is to legislate on the lines of Andhra Pradesh, Karnataka, Odisha and Gujarat Land Grabbing Act.

7.It is very unfortunate that even some people claiming to be Advocates dressed up in black and white also act, like 'paid hooligans' to grab the properties with the connivance of land grabbers. As a result, the Police Force is also not registering the cases against them fearing that there will be agitation by Advocates.

8.It is also brought to the notice of this Court that for fabrication of documents, some of the Registrars are stated to be hand in glove with the Land Grabbers and they are substituting even three or four year old documents with new documents to make it appear as if the Land Grabbers are the owners of the properties. This is an attempt to give legality to the fabricated documents to be used by the offenders.

9.Mr.M.Muthugeethaiyan, learned Special Government Pleader takes notice on behalf of the respondents 1 to 3. Notice to the respondents 4 to 7 returnable by **16.12.2020.**

10. Call the matter on **16.12.2020 at 02.15 p.m.**

11.This Court expects that the learned Advocate General appearing for the State would get appropriate instructions, as the

issue highlighted by the petitioner affects innocent property/land owners.

sd/-
07/12/2020

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/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note :- In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE PRINCIPAL SECRETARY TO GOVERNMENT OF TAMIL NADU,
DEPARTMENT OF HOME,
SECRETARIATE, CHENNAI.
- 2 THE PRINCIPAL SECRETARY TO GOVERNMENT OF TAMIL NADU,
DEPARTMENT OF LAW,
SECRETARIATE, CHENNAI.
- 3 THE DIRECTOR GENERAL OF POLICE,
CHENNAI.

+1 CC to THE SPECIAL GOVERNMENT PLEADER (SR-7960[I] dated 08/12/2020)

सत्यमेव जयते

ORDER

IN

WP(MD) No.17677 of 2020

Date :07/12/2020

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AE/JC/SAR-II (10.12.2020) 4P / 5C