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WA.No.3261/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE P.DHANABAL

WA.No.3261/2023 & CMP.No.26557/2023

V.Renuka Devi

... Appellant

Vs.

- 1.The Commissioner,
Land Administration
Chepauk, Chennai-5.
- 2.The District Collector
Ranipet District.
- 3.The Sub Collector
Ranipet District.
- 4.The District Revenue Officer
Ranipet District.
- 5.The Revenue Divisional Officer
Arakonam Taluk, Ranipet District.
- 6.The Tahsildar



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Arakonam Taluk, Ranipet District.
7. The Village Administrative Officer
Perungalathur Village,
Ranipet District.

... Respondents

Prayer : Writ appeal filed under Clause 15 of Letters Patent against the order dated 26.09.2023 made in WP.No.5810/2023.

For Appellant : Mr.M.Deivanandam
For Respondents : Mr.R.Ramanlaal, AAG assisted by
Mr.T.Arun Kumar,AGP

JUDGMENT

[Order of the Court was made by S.S.SUNDAR, J.,]

(1) This appeal is directed against the order of the learned Single Judge dated 26.09.2023 made in WP.No.5810/2023, dismissing the writ petition filed by the appellant for issuing a writ of certiorarified mandamus to quash the order of the 2nd respondent dated 04.07.2022 and to direct the respondents to make necessary changes in the revenue records by recording the name of the writ petitioner/appellant as owner in respect of lands measuring an extent of 3 acres comprised in S.Nos.503/1, 503/2, 503/8, 519/3 and 519/4 at Perungalathur Village, Arakonam Taluk, Ranipet District.



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(2) Brief facts that are necessary for the disposal of this writ appeal are as follows:-

(3) The appellant purchased the entire extent of three acres comprised in S.Nos.503/1, 503/2, 503/8, 519/3 and 519/4 at Perungalathur Village, Arakonam Taluk, Ranipet District under a Sale Deed dated 28.04.2003 from one Gopal. The appellant's vendor got assignment of the said lands as per the Deed of Assignment in the year 1991. Patta had been issued in the name of appellant's vendor originally in the year 1994. Thereafter, patta was changed in the name of the appellant in the year 2006. Later, the name of some of the third party was included as pattadar along with the appellant in the revenue records. Since the land was originally assigned by the Government, the matter was referred to the Commissioner, Land Administration. The Commissioner, Land Administration, however held that the lands which are assigned in favour of appellant's vendor, had been alienated without the permission of the Government and therefore, the assignment should be cancelled and lands should be resumed from the person in possession. The Commissioner,



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Land Administration, taking note of the fact that the lands assigned in favour of depressed class people, held that alienation in favour of appellant without permission of the Government, renders assignment liable for cancellation. Therefore, the Commissioner, Land Administration directed the District Revenue Officer to conduct enquiry and to take appropriate steps to restore the land. Pursuant to this, the District Collector, vide proceedings dated 04.07.2022 passed an order directing resumption of land from the appellant and to convert the classification of land as "Anaadeenam". A further direction was also issued to the revenue officials to the effect that the land should be registered in the Prohibitory Book. Challenging the order of District Collector, the appellant filed the writ petition for the relief above referred.

(4)The learned Single Judge, after taking note of the fact that the land was originally assigned in favour of depressed class people and the same has been sold to the vendor of the appellant who has owned a residence in Mylapore, came to the conclusion that the assignee who got the land free of land value, sold it in violation of Rules and Regulations. Learned Single Judge has not referred to any specific violations.



(5) This Court considered the assignment in favour of appellant.

(6) Learned Additional Advocate General relied upon clauses 3 and 8 of the original Assignment which read as follows:-

"3. கவர்ன்மெண்டாருடைய அனுமதியில்லாமல்
இந்நிலத்தை இந்திய யூனியன் குடியாகவாவது
யாதொரு இந்திய சமஸ்தானத்தைச் சேர்ந்த
குடியாகவாவது இராத ஒரு நபருக்குப் பராதீனம்
செய்தால், இந்த ஒப்படை
செலாவணயற்றதாகிவிடும்.

...

8. இந்நிலமானது ஒப்படையின்
தேதியிலிருந்து பத்து வருட காலத்துக்குள்
விற்பனை, தானம், அடைமானம் அல்லது
யாதொரு வகையான குத்தகை மூலமாக எந்த
நபருக்காகிலும் பராதீனம் செய்யப்பட்டாலும்,
தாழ்த்தப்பட்ட வகுப்புகளை சேர்ந்தவராயிராத
ஒருவருக்கு அந்த காலத்துக்குப் பிறகு பராதீனம்
செய்யப்பட்டாலும், சட்டசம்பந்தமான ப்ராஸஸ்
என்னும் கட்டளைப்படியாவது மற்றப்படியாவது
விற்பனை செய்யப்பட்டது காரணமாகப் பிரதம
ஒப்படைதாரருக்கோ அவருடைய சட்டசம்பந்தமான
வாரிசுகளுக்கோ அல்லது (இ பத்து
வருஷங்களுக்குப் பிறகு) தாழ்த்தப்பட்ட



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வகுப்புகளைச் சேர்ந்த மற்றவர்களுக்கோ
சொந்தமாயிராமற் போய்விட்டாலும்
நிர்ணயிக்கப்பட்ட தேதிகளில் கவரன்மெண்ட்
தீர்வையை செலுத்தத் தவறிப்போய்விட்டாலும் ஷி
ஒப்படை நிலம் கவரன்மெண்டாரால் திருப்பி
எடுத்துக் கொள்ளப்படுவதற்கு உட்பட்டதாகும்.
அப்போது கவரன்மெண்டார் யாதொரு பிரதிபலன்
கொடுக்காமலே அல்லது கிரய பணத்தை வாபஸ்
செய்யாமலே ஷி நிலத்தில் மறுபடியும்
பிரவேசித்து அதை கவாதீணப்படுத்திக் கொள்ள
பாத்தியதை உள்ளவர்களாவார்கள். ஆயினும்
இந்த தடையானது பிரஸ்தாப நிலத்தை
நிலவிருத்தி சம்பந்தமான கடன்களை குறித்த
ஆகட்டின்படியும் விவசாயிகளுக்கு கடன்
கொடுப்பதை பற்றிய ஆகட்டின்படியும்
கவரன்மெண்டாருக்காவது தாழ்த்தப்பட்ட
வகுப்பாரைச் சேர்ந்தவர்கள் மாத்திரமே
மெம்பர்களாயிருக்கும் யாதொரு கூட்டுறவு
சங்கத்துக்காவது ஈடுக்காட்டிக் கொதுவை
வைப்பதற்கு பிரயோசனபடமாட்டாது. அன்றியும்
நிலமெடுத்துக்கொள்வதைக் குறித்த ஆகட்டின்படி
ஷி நிலங்கள் பிற்பட்டு அடைபடும்போது
பிரதிபலன் செலுத்தப்படுவது ஷி தடையினால்
பாதிக்கப்படமாட்டாது. மேலே குறிப்பிட்டபடி
ஒப்படை நிலத்தைத் திரும்ப



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எடுத்துக்கொள்வதற்கும் அதில் மறுபடியும்
பிரவேசிக்கும்படி உத்தரவு செய்யவதற்குமுள்ள
அதிகாரமானது ரெவின்யூ டிவிஷனல்
ஆபிசாரிடத்தில் சமர்ப்பிக்கும்."

(7) Clause 3 of the Assignment refers to prohibition to alienate the land in favour of anyone who is not a citizen of this Country or Union Territory / States. Clause 8 though prohibits alienation within a period of ten years of assignment, permits alienation in favour another depressed class after ten years. It is not in dispute that the appellant is also a person belongs to depressed class and therefore, alienation in favour of the appellant is not contrary to clause 8.

(8) Learned Additional Advocate General submitted that the land was not brought under cultivation within the period specified in the order. Even though learned Additional Advocate General relied upon general conditions, this Court is unable to find any violation merely because the land is sold in favour of appellant after 11th year. Even though the general conditions in respect of assignment in other categories was relied upon by the learned Additional Advocate General, this Court cannot rely upon those conditions which do not form part of assignment that was given in



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favour of appellant's vendor. The order of Commissioner, Land Administration as well as the District Collector refers to a condition that there cannot be any alienation without the permission of the Government. Such condition is not there in the assignment. When the terms and conditions of assignment does not refer to the condition which was presumed to be mandatory by respondents, this Court is unable to sustain the order impugned in this writ appeal.

(9) Even though the learned Additional Advocate General relies upon a few other conditions and submitted that the assignment is liable to be cancelled for violation of such conditions, this Court finds no relevance to those conditions which do not form part of the assignment. Learned Additional Advocate General tried to impress this Court by referring to something which was never pleaded or not relied upon or cited as a reason to cancel the assignment and resuming the land from the appellant.

(10) The Hon'ble Supreme Court in ***Mohindhr Singh Gill and Another Vs. Chief Election Commissioner, New Delhi and Others [1978 [1] SCC 405]***, has reiterated the position that "*every action should be judged by the reasons stated while making the order and supplementary reasons in*



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the shape of affidavits have to be excluded."

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(11) Since the law is settled, this Court cannot examine any other grounds which are not cited as reason for resumption of land by official respondents.

(12) For the foregoing reasons, the writ appeal stands **allowed** and the order of the learned Single Judge dated 26.09.2023 made in WP.No.5810/2023 is set aside **and the writ petition stands allowed.**

(13) The Tahsildar / 6th respondent herein is directed to restore patta in the name of the appellant within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [P.D.B., J.]
26.11.2024

AP
Internet : Yes
Neutral Citation: Yes



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S.S. SUNDAR, J.,
and
P.DHANABAL, J.,

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