



W.P.(MD) No.21410 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	07.06.2024
Delivered on	25.07.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.21410 of 2016

and

W.M.P.(MD) No.15296 of 2016

Geetha

... Petitioner

Vs.

- 1.The District Collector,
Sivagangai District,
Sivagangai.
- 2.The District Backward Class & Minority
Welfare Officer cum Sivagangai Revenue
Divisional Officer,
Sivagangai District, Sivagangai.
- 3.The Village Administrative Officer,
K.K.Pallam Village,
Manamadurai Taluk,
Sivagangai District.

4.P.Ramasamy

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorari calling for the records relating to the



W.P.(MD) No.21410 of 2016

impugned order made by the second respondent in Nimu.A3.1386/2012 dated 25.02.2016 and quashing the same as illegal.

For Petitioner : M/s.Jasima Yasmin
for M/s.Ajmal Associates

For R1 to R3 : Mrs.S.Jeya Priya
Government Advocate

For R4 : Mr.S.Ramesh

ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorari to call for the records relating to the impugned order dated 25.02.2016 bearing reference No.Nimu.A3.1386/2012 passed by the second respondent and quash the same as illegal.

2. By the impugned order dated 25.02.2016, the second respondent has cancelled the assignment of the land that had been given to the petitioner's predecessor earlier and the patta that was issued in favour of the petitioner's vendor.

3.The learned counsel for the petitioner, at the outset, would submit that the issue is no longer *res integra* and is covered by a decision of the



W.P.(MD) No.21410 of 2016

Division Bench of this Court in **T.Thirumalai Gounder and another Vs.**

The State of Tamil Nadu, rep. by its Secretary to Government, Land

Administration, Chennai and others, 2010-5-L.W.289. Specifically, a reference was made to paragraphs 13 and 16 of the said Judgment, which reads as under:-

“13. There is no dispute that the property could be transferred with the permission of the revenue authorities. When the Revenue authorities own their own motion and by accepting the sale deed dt. 16.5.1967 endorsed the ownership of the first appellant and mutated the revenue entries in his name, such transfer should be considered to be an act of permission for assigning the land. The revenue authorities having passed orders for mutation of revenue records, cannot be permitted subsequently to cancel the very assignment on the ground that there was no prior permission from the revenue authorities for transfer of assignment. Therefore, the Revenue Divisional Officer Virudhachalam was not justified in cancelling the assignment in favour of the first appellant.

.....

16. The Revenue authorities having endorsed the transfer made by Thiru. Kandasamy in favour of the first appellant, should not have entertained the petition filed by the 5th respondent after a period of 21 years. The appellants are illiterate villagers and admittedly, they have no other property. They are eking their livelihood from the income which they receive by cultivation. The land has changed hands on many occasions and the final transfer was in



W.P.(MD) No.21410 of 2016

favour of the first appellant. The possession of the property by the predecessor-in-interest of the first appellant and later by the first appellant, were known to the village officers. It was only in such circumstances, they have mutated the revenue records and the first appellant was shown as person in possession of the property doing cultivation.”

4. The learned counsel for the petitioner would submit that the very same order passed by the second respondent has already been quashed by this Court in a parallel proceedings, *vide* order dated 17.06.2022 passed in W.P.(MD) No.59 of 2017, in the case of **M.Vijayavennila Vs. The Revenue Divisional Officer (Incharge), Sivagangai Backward Class and Minorities Welfare Office, Sivagangai).**

5. On merits, the learned counsel for the petitioner would submit that the land in question was originally assigned to 19 assignees. It is submitted that though there was prohibition under the relevant Revenue Standing Order No.15 as amended by G.O.Ms No.2485, Revenue Department, dated 09.11.1979, the land in question had been sold by the assignees to various vendors. G.O.Ms No.2485, Revenue Department, dated 09.11.1979 reads as under:-



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W.P.(MD) No.21410 of 2016

Abstract

ASSIGNMENT – Land – Alienation of assigned lands – B.S.O.15-12(3)(1) – Amendment – Ordered.

Read:

Govt. memo. No.61292 F2/76-11, Rev.
dt. 21.6.77.

Read also:

From the Board of Revenue (LR)
Ref.B1/6794/79-1, dt.4.10.79.

G.O.Ms.No.2485

Dt. 9.11.1979

=====

ORDER:

In their memo, first read above, the Government accepted the views of the Full Board and directed that there was no need to extend the time limit beyond the existing period of 10 years prescribed under B.S.O.15-12(3)(1) for alienating the lands assigned under B.S.O.15 but subject to the condition that in the event of the assignee wishing to dispose of the land after the above period, he should get the prior permission of either the Tahsildar or the Revenue Divisional Officer, who should give permission only, if the sale is to one of the categories eligible for assignment of Government waste lands for cultivation purposes. The Government also requested the Board to take steps to incorporate the above instructions in the B.S.O.

2. The Board of Revenue (LR) has sent draft amendment to B.S.O.15-12(3)(1). The Govt. accept the draft amendment suggested by the Board of



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W.P.(MD) No.21410 of 2016

Revenue (LR) and direct that the amendment as indicated in the Annexure to this order be issued to B.S.O.15-12(3)(1).

3. The Board of Revenue (LR) is requested to issue correction slips to B.S.O.15 and to send 10 copies of the correction slips to Government.

Secretary to Government,
Revenue Department.

To
The Board of Revenue (LR), Madras-5.
All Collections/D.R.Os.

Copy to Revenue (A), (D), (J), (M) & (P) Sections.

ANNEXURE

AMENDMENT

In Board Standing Orders, in order 15, to clause (1) of sub-paragraph (3) of paragraph 12, the following shall be added at the end, namely:-

“The assigned lands may be alienated after the period of ten years, but subject to the condition that in the event of the assignee wishing to dispose of the land after the above period, he should get prior permission of either the Tahsildar or the Revenue Divisional Officer, who should give permission only, if the sale is to one of the categories eligible for assignment of Government waste lands for cultivation purposes”.

/True copy/

Section Officer



W.P.(MD) No.21410 of 2016

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6. As far as the petitioner is concerned, the petitioner purchased the property measuring an extent of 15.85 Hectares, from one Amudha Devi, *vide* registered Sale Deed dated 28.12.2005 bearing Doc.No.2545 of 2005. The said vendor had earlier purchased the same from the Original Assignees despite the restrictions under the amended Clause to the aforesaid Revenue Standing Order No.15.

7. The learned counsel for the petitioner would submit that the petitioner is a *bona fide* purchaser and was unaware of the restrictions regarding the land and therefore, there is no justification in cancellation of the patta granted to the petitioner's vendor, namely Amudha Devi.

8. It is submitted that once the Revenue Authority had mutated the revenue records, the question of cancelling the standing patta either in the name of the petitioner's vendor or in the name of the petitioner cannot be countenanced.

9. In support of his contention, the learned counsel for the petitioner has also placed reliance on the following judgments:-



W.P.(MD) No.21410 of 2016

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- i. **K.S.Jarina Vs. The Commissioner of Land Administration, Chennai and others**, dated 03.08.2022 in W.P.(MD) No.9335 of 2013.
 - ii. **M.S.A.Musthafa Ibrahim and another Vs. The Principal Secretary/Commissioner of Land Administration (FAC) and Commissioner of Survey and Settlement, Chennai and others**, dated 24.06.2022 in W.P.(MD) Nos.8799 and 11231 of 2017.

10.The Writ Petition is opposed by the learned counsel for the fourth respondent. It is submitted that the fourth respondent herein had earlier filed W.P.(MD) No.3010 of 2013, wherein the fourth respondent herein had prayed for a direction to the official respondents to take action against the private respondents therein.

11. It is submitted that in the aforesaid Writ Petition, the petitioner was the fifth respondent, the petitioner in W.P.(MD) No.59 of 2017 was the seventh respondent and the petitioner's vendor, Amudha Devi was the sixth respondent.

12. It is submitted that the land was meant for agricultural purpose for the benefit of the landless peasants/labourers to give them a dignity of



W.P.(MD) No.21410 of 2016

life under the Constitution of India. It is submitted that the petitioner is not a agriculturist of the land and the land is remaining as Tharisu (dry – uncultivated land).

13. It is submitted that the land has been purchased by the persons from outside the State and has been used for production and storage of charcoal, which is contrary to the purpose, for which the lands were being assigned to the landless peasants/labourers by the Revenue Standing Order of the Government. In this connection, a reference was made to the following paragraph from the impugned order:-

“மேலே கண்ட புல எண்கள் நில ஒப்படை பெற்ற நபர்கள் ஒப்படை பெற்ற தேதியில் இருந்து நாளது தேதி வரை சாகுபடி செய்யாமல், தரிசு நிலமாக இருந்துள்ளது. ஒப்படை பெற்ற நிலத்தை வெளி மாவட்டத்தைச் சேர்ந்த வசதி படைத்த நபர்களுக்கு கிரையம் கொடுத்துள்ளனர். ஒப்படை பெற்ற நிலத்தை கிரையம் பெற்ற நபர்கள் சாகுபடி செய்யாமல், மேற்படி இடத்தில் கரி மூட்டம் தொழில் நடத்தி வருவது விசாரணையில் தெரிய வருகிறது. ஒப்படை பெற்றவர்களுக்கு நோட்டீஸ் அனுப்பப்பட்டதில், கிராம நிர்வாக அலுவலர் மேற்படி ஒப்படைதாரர்கள் எவரும் ஊரில் இல்லை என்று அறிக்கை செய்துள்ளார் அரசாணையில் கண்டுள்ள விதிகளின்படி பின்பற்றாமலும் வெளி மாவட்டத்தை சேர்ந்த வசதி படைத்த நபர்களுக்கு கிரையம் கொடுத்துள்ளதாலும் ஒரு சில நபர்கள் நில ஒப்படை பெற்ற நாளில் இருந்து இதுநாள் வரை ஒப்படை பெற்ற நிலத்தில் பயிர் வைத்து சாகுபடி செய்யாமல் தரிசு நிலமாக வைத்துள்ளதாலும், ஒப்படை விதி மீறல் மற்றும் நிபந்தனை மீறல் உள்ளதால் மேற்படி



W.P.(MD) No.21410 of 2016

நில ஒப்படையை ரத்து செய்து ஆணையிடப்படுகிறது.

இவ்வுத்திரவின் மீது மேல்முறையீடு செய்ய விரும்பினால், இவ்வுத்திரவு கிடைக்கப்பெற்ற 30 நாட்களுக்குள் சிவகங்கை மாவட்ட வருவாய் அலுவலருக்கு மேல்முறையீடு செய்து கொள்ளலாம் என்ற விபரம் மனுதாரருக்கும் எதிர்மனுதாரருக்கும் தெரிவிக்கப்படுகிறது.”

14. I have considered the arguments advanced by the learned counsel for the petitioner, the learned Government Advocate for the first to third respondents and the learned counsel for the fourth respondent.

15. The issue for consideration in the Writ Petition is whether the petitioner is entitled to perfect the title on the ground that the petitioner is a *bona fide* purchaser of the land, particularly when there was mutation of records pursuant to the first sale in favour of the petitioner's vendor on 18.09.2000, in the light of the decision of the Division Bench of this Court rendered in **T.Thirumalai Gounder's** case referred *supra*, which has been followed by this Court on earlier occasion in **M.Vijayavennila's** case referred *supra*, who was the seventh respondent in W.P.(MD) No. 3010 of 2013 filed by the fourth respondent herein, pursuant to which, the impugned order has been passed by the second respondent herein.



W.P.(MD) No.21410 of 2016

16. The impugned order has not clearly given the details of the date of assignment of lands in Survey Nos.18/1A1, 18/1A2, 18/1A3, 18/1A4, 18/1A5, 18/1A6, 18/1A7, 18/1A8, 18/1A9, 18/1A10, 18/1A11, 18/1A12, 18/1A13 & 18/1A14, to the original assignees and the date of subsequent sales and patta issued by the Revenue Authorities to the subsequent buyers/purchasers who have alienated the lands to the petitioner.

17. The alienation of the lands has been contested, notwithstanding the fact that such alienation was made without permission of the Revenue Authorities, as per the Government Order. Such alienation of the land violated the conditions by altering its agricultural purpose. The impugned order indicates that the land is not being used for agricultural purposes, thereby deviating from the intended purpose for which the assignments were made by the Government for the benefit of landless peasants. The impugned order also indicates that the petitioner is using the land for the storage of coal as a coalyard.

18. The land in question appears to be rendered as a dry land even though it was classified as 'punja land' as per the impugned order.



W.P.(MD) No.21410 of 2016

Therefore, the cancellation of the patta vide the impugned order does not call for any interference. The agricultural land cannot be converted into commercial land by persons even if they do not intend to cultivate the said land. Therefore, I do not find any merits in the present Writ Petition.

19. The decision of the Division Bench of this Court rendered in **T.Thirumalai Gounder's** case referred *supra*, cannot be applied to the facts of the present case as in the present case, there is a conversion of the agricultural land into a non-agricultural land.

20. In the result, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

25.07.2024

Index: Yes / No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order

MM/JEN

Copy To:

1.The District Collector,
Sivagangai District,
Sivagangai.



W.P.(MD) No.21410 of 2016

2.The District Backward Class & Minority
Welfare Officer cum Sivagangai Revenue
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W.P.(MD) No.21410 of 2016

C.SARAVANAN, J.

JEN

Pre-Delivery order made in

W.P.(MD) No.21410 of 2016
and
W.M.P.(MD) No.15296 of 2016

25.07.2024