

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.02.2018

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A No.991 of 2016 and
C.M.P.No.12921 of 2016

1.A.Andiappan
2.A.Karuppaiah

.... Appellants

-vs-

1.The Special Commissioner and Commissioner
(Land Reforms), Ezhilagam Building,
Chepauk, Chennai - 600 005.

2.The Assistant Commissioner (Land Reforms)
165-D, Barathi Ula Street,
Race Course Colony,
Near Thamari Thotti,
Madurai -20.

3.D.Sundari
4.A.Pichchi

..... Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent
against the order passed in W.P No.12346 of 2011 dated
27.01.2016.

W.P.No.12346 of 2011:

Writ Petition filed under Article 226 of the constitution of
India for a Writ of Certiorarified Mandamus calling for the
records in D1/R.P.No.5/2007 (L.Ref) dated 17.03.2011 on the file
of the 1st respondent and quash the same as illegal and direct
the respondent 1 and 2 to forbear from taking possession of the
property bearing Survey Numbers 153/1B, 153/2A & 153/1C , 153/2B
situated in K.Alagapuri from the petitioner.

For Appellants : Mr.A.Thiagarajan
Senior Counsel for
Mr.S.Ramesh Kumar

For Respondents: Mr.V.Anandhamurthy
Addl. Govt.Pleader for R1 & R2
Mr.R.N.Amarnath for R3 & R4

J U D G M E N T
[Judgment of the Court was delivered by
K.K. SASIDHARAN, J.]

The Assistant Commissioner (Land Reforms), Madurai, by order dated 27 September 1996, cancelled the assignment of land in favour of the appellants on the ground of violation of the terms and conditions of the grant. The order was confirmed by the Land Commissioner. The writ petition filed by the appellants was dismissed by the learned single Judge. Feeling aggrieved, the appellants are before this Court.

2. The land in Survey Numbers 153/1B, 153/2A was allotted to the first appellant. Similarly, the land in Survey Numbers 153/1C and 153/2B was allotted to the second appellant. The assignments were made on the basis that they are poor agricultural Adi Dravidar labourers. There was a covenant mandating that the land shall not be transferred and that the assignee must undertake agricultural operation.

3. The assignments were cancelled by the Assistant Commissioner by order dated 27 September 1996. The land was re-assigned by order dated 28 December 1996 in favour of the respondents 3 and 4 herein.

4. The order dated 27 September 1996 on the file Assistant Commissioner, Madurai, was challenged by the appellants before the Land Commissioner, Chennai. The Land Commissioner, by way of a very detailed order dismissed the revision petition by order dated 17 March 2011. The order was challenged before the Writ Court in W.P.No.12346 of 2011. The learned single Judge dismissed the writ petition by order dated 27 January 2016.

5. The learned Senior Counsel for the appellants contended that the assignment was cancelled on the ground that the appellants have transferred the land in favour of third parties and that there was no compliance of the conditions of assignment. According to the learned Senior Counsel, not even the registration number of the document was mentioned in the impugned order. The learned Senior Counsel further contended that for want of water, the appellants could not undertake agricultural operations. The learned Senior Counsel therefore submitted that the matter should be remanded to the revisional authority for fresh consideration.

6. We have also heard the learned Additional Government Pleader on behalf of respondents 1 and 2 and the learned counsel for the respondents 3 and 4.

7. The appellants were the beneficiaries of an order of assignment dated 14 May 1980. The assignment was given with

certain conditions. As per the terms and conditions of assignment, the assignee must undertake agricultural operations. In fact, only in their capacity as agricultural labourers, assignment of land was given. There was also a provision restraining the assignees from transferring the land.

8. The order passed by the original authority cancelling the assignment and the related order passed by the Land Commissioner dated 17 March 2011 clearly indicates that the land was transferred by the appellants in favour of third parties. It is true that the details of the documents were not given in the order. However, the appellants have not seriously disputed about the factum of transfer of possession. It is also clear from the records that the appellants have not undertaken agricultural operations, which was a primary condition of assignment. The purchasers of the land from the appellants submitted individual applications for transfer of patta. These facts were disclosed in the order passed by the Land Commissioner. The appellants have neither denied those material facts expressly nor produced materials to demonstrate that there was no such transfer and that they have undertaken agricultural operations. Since the assignments were given for a particular purpose and with a covenant, the original authority was correct in cancelling the assignment on account of the violation of such mandatory conditions.

9. This Court is not expected to act as Appellate Authority in respect of a decision taken by the statutory authority under the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 and the Rules made thereunder. The Court is expected only to consider as to whether the order was passed in accordance with the procedure contemplated under the Rules. The jurisdiction under Article 226 of the Constitution of India is only against the decision making process.

10. The Land Commissioner considered the case pleaded by the appellants and rightly rejected the revision. We do not find any reason to take a different view in the matter.

10. The intra court appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

svki

To

1.The Special Commissioner and Commissioner
(Land Reforms), Ezhilagam Building,
Chepauk, Chennai - 600 005.

2.The Assistant Commissioner (Land Reforms)
165-D, Barathi Ula Street,
Race Course Colony,
Near Thamari Thotti, Madurai -20.

+1 CC to Mr.R.N.Amarnath, Advocate sr 11708.

+1 CC to Govt. Pleader sr 11765.

W.A No.991 of 2016

LRS (CO)
SP(12/03/2018)



WEB COPY