



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH

and

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W.A(MD)No.1464 of 2018

and

C.M.P(MD)No.10320 of 2018

1. The Tahsildar,
Madurai North Taluk,
Madurai - 625 020.
 2. The Revenue Divisional Officer,
Madurai - 625 020.
 3. The District Revenue Officer,
Madurai - 625 020.
 4. The Assistant Director,
Tamil Nadu Archaeological Department,
Mahal,
Madurai - 625 001.
- ... Appellants/Respondents

Vs.

S.M.Balasubramanian ... Respondent/Petitioner

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order, dated 02.08.2011 made in W.P(MD)No.1974 of 2006, on the file of this Court.

Prayer in WP(MD)No. 1974 of 2006 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, calling for the records relating to the impugned proceedings of the 3rd respondent in Ref. Na.ka.No. 73126/2003/J4 dated 11/02/2006 and to quash the same

For Appellants	: Mr.Aayiram K.Selvakumar, Additional Government Pleader.
For Respondent	: Mr.T.Arul

JUDGMENT

(Judgment of the Court was delivered by
HULUVADI G.RAMESH,J.)

Heard the learned Additional Government Pleader for the appellants and Mr.T.Arul, learned counsel, who takes notice for the respondent.



2. This writ appeal is directed as against the order, dated 02.08.2011 passed in W.P(MD)No.1974 of 2006.

3. With regard to assignment of land in question, the learned Single Judge passed an order in paragraph No.21 and the same reads as follows:-

"21.The contention of the petitioner that there was no notification in force under the Tamil Nadu Ancient and Historical Monuments and Archaeological Special Sites and Remains Act at the time of allotment, and in any case, the Act does not bar assignment of land and it had only regulates the assignment, also deserves to be accepted as the authorities under an Act, can regulate the use of land, but, it certainly cannot ask respondent No.2 to cancel the allotment after a lapse of ten years."

4. However, against which, this Writ Appeal is filed by the State.

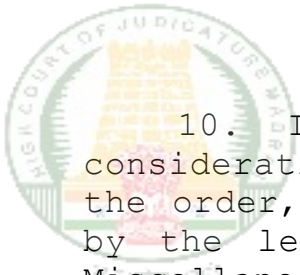
5. According to the learned Additional Government Pleader appearing for the State, the land in question comes within the close vicinity of the Tamil Nadu Ancient and Historical Monuments and Archaeological Special Sites ie., nearby monuments.

6. However, what is been noticed is that the said assignment was made during the year 1992 and it was enjoyed for more than 12 years without any interruption or any objection. At later stage, nearly after a lapse of 10 years, action was taken to cancel the assignment made. The assignment was made under a scheme within the category of landless person, as the income was below Rs.10,000/- per annum.

7. The only ground raised by the State is that there was augmentation of income of more than Rs.10,000/- etc.

8. However, the learned counsel appearing for the respondent/writ petitioner contended that the learned Single Judge found that subsequent increase in the salary will not take away the vested right of assignment to the respondent/writ petitioner. He further contended that at the relevant point of time, there was no such regulation for monitoring such allotment nearby the vicinity of the historical monuments.

9. In view of the above, by way of subsequent development if it is found that the property is disturbing the maintenance of the historical monuments, the same can be looked into at the matter. However, so far no such plea has been raised by the State.



10. In the result, this Writ Appeal does not deserve consideration and accordingly, the same is dismissed by confirming the order, dated 02.08.2011 made in W.P(MD)No.1974 of 2006 passed by the learned Single Judge. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

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Mahal,
Madurai - 625 001.

+1cc to Spl.Government Pleader Sr.No.91408

PS/PM

VB/SKN/SAR4/02.11.2018/3P/6C

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