



2.The learned Single Judge dismissed the Writ Petition on the ground that the Petitioner being the subsequent purchaser from the original assignee, is not entitled to maintain the Writ Petition. However, the learned Judge has also observed that it is open to the Writ Petitioner to agitate the matter before the appropriate forum by questioning the cancellation of assignment, if law provides.

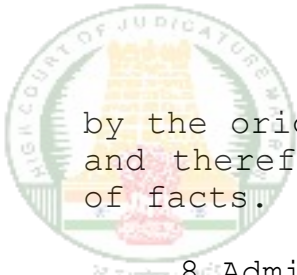
3.Mr.M.Vallinayagam, learned Senior Counsel for the appellant submitted that the Writ Petitioner, having purchased the property after the ban period and having obtained the patta also from the revenue officials in respect of the subject-matter property, is certainly the person entitled to notice before passing the impugned order of cancellation. Thus, he submitted that in the absence of any notice to the Writ Petitioner, the impugned proceedings violates the principles of natural justice.

4.On merits, the learned Senior Counsel contended that the alienation made by the original assignee was after the ban period of ten years and therefore, such alienation is valid. He further contended that, had the Petitioner been given an opportunity to place the material facts before the respondent, he would have satisfied that the reasons stated in the impugned proceedings are factually incorrect, insofar as the subject-matter lands are concerned.

5.On the other hand, the learned Additional Government Pleader appearing for the respondent submitted that the very alienation was made in violation of the terms of assignment and consequently, the Writ Petitioner being the subsequent purchaser is not entitled to question the cancellation order. He further pointed out that notice was issued to the original assignees and however, they have not chosen to appear before the respondent even after the receipt of such notice. Therefore, he contended that the principles of natural justice has been strictly followed in this case.

6.Heard both sides.

7.The dispute is in respect of three items of properties situated in S.Nos.244/12, 244/11 and 244/4 of Thiruvelangudi Village, Karaikudi Taluk, Sivagangai District. It is stated that those lands were originally assigned in favour of the original assignees namely, Andiappan, S.Elango and M.Jothimani on 14.06.1992, 31.05.1994 and 18.06.1992 respectively. It is claimed by the appellant that those original assignees have sold those respective lands to one Vadivel on 20.10.2004, 4.11.2004 and 6.12.2004 ie., after the ban period of ten years. It is further contended that patta was also transferred in the name of the said Vadivel, after such purchase. The claim of the Writ Petitioner is that he purchased all the three items from the said Vadivel on 27.07.2006 and consequently, got the patta also transferred in his name. Therefore, it is contended by the Writ Petitioner that the very first sale made



by the original assignees was only after the ban period of ten years and therefore, the cancellation cannot be made on wrong assumption of facts.

8. Admittedly, the order of cancellation impugned in this Writ Petitioner has purchased the property much earlier to such cancellation, that too, after getting patta transferred in his name, it is all the more required that the Petitioner should have been given an opportunity of hearing before passing the impugned proceedings. No doubt, it is seen from the impugned proceedings that notice was issued to the original assignees and however, they have chosen not to respond to the said notice. But at the same time, when it is claimed by the Writ Petitioner that the purchase was made by the said Vadivel after the ban period of ten years and by the Petitioner after 12 years admittedly much earlier to the impugned order passed in the year 2008, we are of the considered view that the Petitioner should have been given an opportunity of hearing before passing the impugned order. Needless to say that it is for the petitioner to place all the materials before the respondent and satisfy as to how the conditions of assignment are not followed in respect of the respective claim made by the parties. Thus we are inclined to remit the matter back to the respondent to consider the matter afresh, only on the ground of violation of principles of natural justice.

9. Accordingly, the Writ Appeal is allowed and the impugned order of the learned Single Judge is set aside. Consequently, the impugned order passed by the respondent only insofar as the lands situated in S.Nos.244/12, 244/11 and 244/4 to the Original assignees Andiappan, S.Elango and M.Jothimani is set aside and the matter is remitted back to the respondent for considering the matter afresh by giving due opportunity of hearing to the Petitioner. Needless to say that the respondent should also give personal hearing to the Petitioner. After hearing the Petitioner, the respondent is at liberty to pass a fresh order insofar as the subject-matter land alone are concerned, on merits and in accordance with law, within a period of 12 weeks from the date of receipt of a copy of this order. We make it clear that we are not expressing any view on the merits of the claim made by the Writ Petitioner, as we have set aside the impugned order and remitted the matter only on the ground of violation of principles of natural justice. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (Writs)

/True Copy/

Sub Assistant Registrar



To

The Sub-Collector,
Devakkottai,
Sivagangai District.

+1cc to M/S.D.Nallathambi, Advocate SR.No. 60621
+1cc to Special Government Pleader, SR.No. 60702

JUDGEMENT MADE IN
W.A(MD)NO.657 OF 2011
and
M.P(MD)Nos.1 and 2 of 2011
10.04.2018

vsn
JM/RSK/SAR 4/27.04.2018/4P/4C