

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.34662 of 2007
and

M.P.No.2 of 2007 & M.P.No.2 of 2008

- 1.Kantha
- 2.Sakki @ Sakkiammal
- 3.Samakkal
- 4.Govindammal
- 5.Perumathammal
- 6.Amaravathi
- 7.Chandra
- 8.Rajammal

...Petitioners

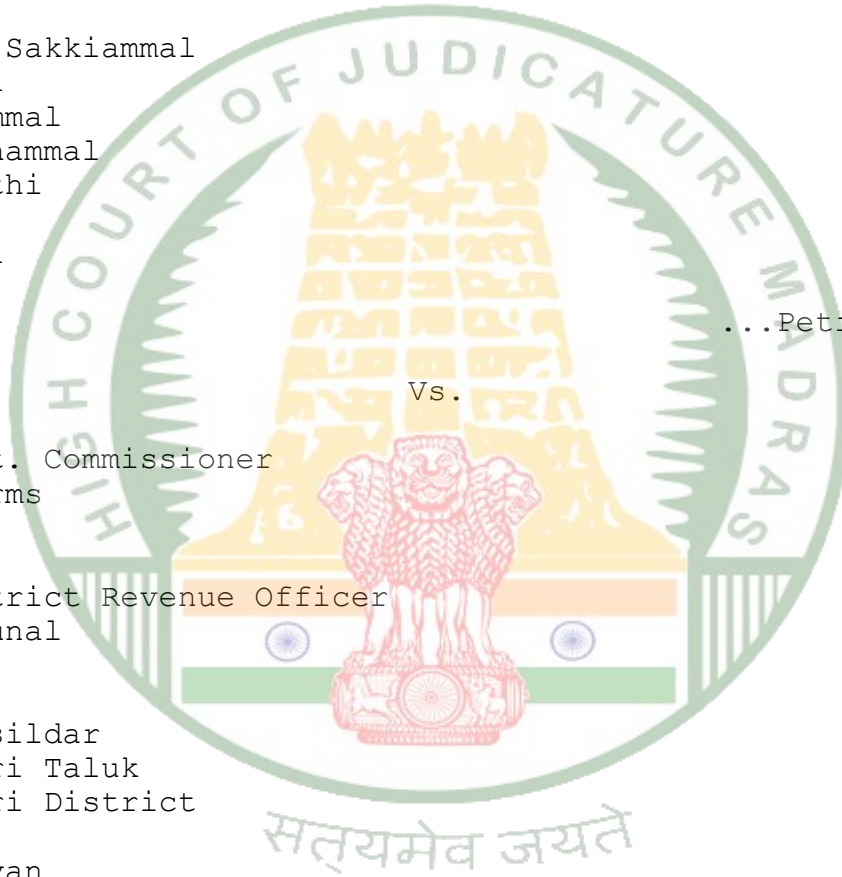
Vs.

1.The Asst. Commissioner
Land Reforms
Erode

2.The District Revenue Officer
Land Tribunal
Thanjavur

3.The Tahsildar
Krishnagiri Taluk
Krishnagiri District

- 4.R.Raghavan
- 5.Mottaiyan @ Reddiar
- 6.Pattan
- 7.Mani
- 8.A.Suyamprakasam
- 9.G.Kesavan
- 10.C.Chinnasamy
- 11.R.krishnan
- 12.C.Koriappan
- 13.C.Kandasamy
- 14.A.Govindaraj
- 15.V.Chennimannan
- 16.Sivangami



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17.M.Mallaiyan
18.M.V.Chandrasekar
19.T.Ramalingam
20.S.Thilagam Sounder
21.V.Gopalakrishnan
22.K.A.Thambiraj

23.Veliangiri
(R23 impleaded as per court order dt. 29.07.2008
in M.P.No.1/2008 in W.P.No.34662/2007 by SNJ.)

... Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the 2nd respondent in his proceedings in APDSL No.57 of 1996 dated 26.11.1996 and the consequential order of the 1st respondent in his proceedings in Na.Ka.6152/2006/CI dated 06.12.2006 and quash the same and thereby direct the 1st respondent to restore the assignment made in favour of the petitioners by the order of assignment dated 17.09.1992.

For Petitioners :Mr.S.Parthasarathy

For Respondents :Mr.J.Ramesh, AGP for R1 to R3
Mr.V.Raghavachari for R8 to R11, 13 to 22
Mr.P.Sanjai Gandhi for R4, 6, 7
Mr.G.Vasudevan for R23

O R D E R

The petitioner filed this Writ Petition, to call for the records pertaining to the order passed by the 2nd respondent in his proceedings in APDSL No.57 pf 1996 dated 26.11.996 and the consequential order of the 1st respondent in his proceedings in Na.Ka.6152/2006/CI dated 06.12.2006 and quash the same and thereby direct the 1st respondent to restore the assignment made in favour of the petitioners by the order of assignment dated 17.09.1992.

2.The case of the petitioner is that the land comprised in Survey No.108/2A, 108/2B, 108/2C and 108/2D to a total extent of 6.52 Acres at Pethalapalli Village, Krishnagiri District were declared as surplus lands and the same were assigned in favour of the respondents 4 to 7 by the 1st respondent by an order of assignment dated 03.04.1972. The above said lands were assigned in favour of the respondents 4 to 7 on a specific condition that they should not alienate the lands so assigned for a period of

15 years from the date of assignment. The respondents 4 to 7 have failed to follow the conditions stipulated in the assignment order and they sold the properties in favour of the respondents 8 to 22 before the stipulated period of 15 years. In view of the non compliance of the conditions made in the assignment order, the 1st respondent herein by his order dated 11.11.1992 cancelled the assignment made in favour of the respondent 4 to 7 and by his proceedings in Na.Ka.No.8918/90 dated 17.09.1992, assigned the lands to in favour of the petitioners and others allotting each to an extent of 0.50 cents by a deed of assignment dated 17.09.1992. In the meanwhile, the purchasers of the said lands challenged the cancellation of assignment order before the appropriate authorities. However, without hearing the petitioners, the authorities including the final authority, viz. The 1st respondent have passed orders in favour of the respondents 4 to 7 and subsequent purchasers by setting aside the cancellation order. Challenging the said order, the present writ petition has been filed.

3.The learned counsel for the petitioner would submit that though all the authorities categorically taken a view and set aside the cancellation of assessment order and again passed the assignment order in favour of the respondents 4 to 7 and subsequent purchasers, the authorities before cancellation of the assignment order, have failed to hear the petitioners. Therefore, the learned counsel for the petitioner would submit that it is suffice if a direction is issued to the 1st respondent and the matter shall be remanded back to the 1st respondent. Thereafter, the 1st respondent after conducting enquiry with the petitioner and the respondents 4 to 7 and pass a fresh order within the stipulated time framed by this Court.

4.The learned Additional Government Pleader as well as the counsel for the interested parties viz. Respondents 4 to 7 would fairly concede the request made by the petitioners.

5.In view of the limited request made by the learned counsel for the petitioners and the learned counsel for the respondents 4 to 7, this court without going into the merits of the case, is inclined to remand the matter back to the 1st respondent. The 1st respondent is hereby directed to pass a fresh order after hearing the petitioners as well as the respondents 4 to 7 in accordance with law within a period of 12 weeks.

6.The order passed by the 1st respondent is set aside and the matter is remanded back to the 1st respondent. It is made clear that no further notice is required to the petitioner as well as the respondents 4 to 7. The 1st respondent shall fix up an hearing date to hear the petitioners and the interested

parties and pass appropriate orders on merits and in accordance with law within a period of 12 weeks. Till then status quo shall be maintained by both the parties.

7.With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To.

1.The Asst. Commissioner
Land Reforms
Erode

2.The District Revenue Officer
Land Tribunal
Thanjavur

3.The Tahsildar
Krishnagiri Taluk
Krishnagiri District.

+1cc to The Government Pleader, SR. No. 49139

+2cc to Mr.S.Sathishrajan, Advocate SR.No.48743,49574(08/01/2020)

W.P.No.34662 of 2007
and

M.P.No.2 of 2007 &
M.P.No.2 of 2008

VSNI (CO)
RMP (04/07/2019)

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