

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2019

CORAM :

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.Nos.34621 to 34626 of 2004
and WMP.Nos.41780,41781,41783,41784,41786,41787,41789,
41790,41792,41793,41795 & 41796

...Petitioners in
M.Ponnusamy, W.P.No.34621 of 2004
T.Karuppaiah, W.P.No.34622 of 2004
Mottaiammal, W.P.No.34623 of 2004
S.Palanisamy, W.P.No.34624 of 2004
A.Santhanam, W.P.No.34625 of 2004
P.Palaniandi. W.P.No.34626 of 2004

Versus

1.The Commissioner of Land reforms,
Ezhilagam, Chempauk,
Chennai-5.

2.The Assistant Commissioner
(Land Reforms)
Madurai, Madurai District.

3.The Tahsildar,
Taluk Office,
Uthamapalayam Taluk,
Theni District.

4.P.Naina Khan.

...Respondents

Common Prayer: Writ petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the first respondent vide No.D1/R.P.No.88/98 (L.Ref.) dated 28.2.1999 and quash the same and also the consequential proceedings initiated by the 2nd respondent made in his memo bearing No.Na.Ka.No.A1/3737/97 dated 16.05.2000 and forbearing the 2nd and 3rd respondent from canceling the order of assignment dated 3.12.1996 assigned to the petitioner.

For Petitioner in W.P.Nos.

34623&34626/2004

:Mr.S.Sivakumar

for S.Kanmani Annamalai.

34621,34622,34624,34625/2004 : Ms.S.T.P.Kuilmozhi

For Respondents in all W.Ps. : Mr.J.Ramesh

Additional Government Pleader.
for RR1 to 3

: Mr.K.Safar Badhusha for R4

COMMON ORDER

These Writ Petitions have been filed to quash the order passed by the first respondent vide No.D1/R.P.No.88/98(L.Ref.) dated 28.2.1999 and the consequential proceedings initiated by the 2nd respondent made in his memo bearing No.Na.Ka.No.A1/3737/97 dated 16.05.2000 and to forbear the 2nd and 3rd respondent from canceling the order of assignment dated 3.12.1996 assigned to the petitioner.

2.As the prayer sought for in all these writ petitions are common, these writ petitions are taken up for a common disposal and the facts relating to W.P.No.34621 of 2004 is narrated hereunder:

A land to an extent of 3.55 acres in Chinnamanur Village, Uthamapalayam Taluk, Theni District was declared as surplus from the holdings of Mrs.Rajeswari Ammal under notification under Section 18(1) of the Tamil Nadu Land Reforms (FCL) Act (hereinafter referred as 'the Act') and notification was issued in Government Gazette No.146 dated 22.03.1996. Thereafter, the 2nd respondent sent a D-form for surplus assignment to the revenue authorities for publication on 15.11.1996. On receipt of the application from public, assignment was ordered by the 2nd respondent in favour of the petitioners herein. The petitioner had paid the total value of the land in two equal instalments and on payment of the first instalment, the 2nd respondent executed the deed of assignment of surplus land and put the petitioner in possession of the land in survey No.1419 part of Chinnamanur Village, Uthamapalayam Taluk, Theni District to an extent of 58 cents of wet land and the petitioner was in enjoyment and possession and also cultivating crops. Based on the assignment order, mutation of revenue records was also made. While being so, the 4th respondent, in the month of August 2003 attempted to enter into the wet land assigned in favour of the petitioner proclaimed that the 1st respondent herein has passed an order setting aside the notification issued under 18(1) of

the Act. The 4th respondent is the subsequent purchaser, who has purchased the land from one Rajammal, who is concubine of Murugapillai @ Rathinampillai, husband of Rajeswari Ammal, against whom the proceedings are initiated. Aggrieved against the notification issued under 18(1), the petitioners have filed the present writ petitions with the aforesaid prayer.

3.Mr.S.Sivakumar and Ms.S.T.P.Kuilmozhi, learned counsels for the petitioners submitted that the act of the 1st respondent in setting aside the notification without giving opportunity of hearing of the petitioners is unsustainable. Hence, he prays to set aside the order passed by the first respondent and remand back the matter to the concerned authority for fresh consideration.

4.Mr.K.Safar Badhusha, learned counsel for the 4th respondent also conceded to the fact that without notice, the said order has been passed by the 1st respondent and he has no objection to remand the matter back to the concern authority.

5.In view of the submissions made and also on perusal of records, without going into the merits of the case, this Court has no hesitation to set aside the order passed by the 1st respondent. Accordingly, the same is set aside and the matter is remanded back to the Ist Respondent competent authority, who shall decide the matters afresh after giving due opportunities to all the parties concern.

6.With the above observation, these writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1.The Commissioner of Land reforms,
Ezhilagam, Chepauk,
Chennai-5.

2.The Assistant Commissioner
(Land Reforms)
Madurai, Madurai District.

3.The Tahsildar,
Taluk Office,
Uthamapalayam Taluk,
Theni District.

+6cc to Mr.S.Kanmani Annamalai, Advocate Sr.66415
+1cc to Mr.S.T.P.Kuilmozhi, Advocate Sr.66717
+1cc to the Government Pleader Sr.67107

W.P.Nos.34621 to 34626 of 2004

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srg 04/09/2019



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