

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2020

CORAM:

THE HON'BLE MR. JUSTICE T.S.SIVAGNANAM

W.P.No.27861 of 2013

Andappan

.. Petitioner

Vs

The Assistant Commissioner,
Land Reforms,
Villupuram,
Villupuram District.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the in proceedings No.A6.MR4/124/Kalla/17-70 S.No.2, dated 18.09.2013 on the file of the respondent and quash the same.

For petitioner : Mr.R.Rajarajan

For Respondent : Mr.M.D.Ilayaraja, GA

ORDER

Heard Mr.R.Rajarajan, learned counsel for the petitioner and Mr.M.D.Ilayaraja, learned Government Advocate for the respondent.

2. The petitioner challenged the proceedings dated 18.09.2013 cancelling the assignment of land granted to the petitioner under the provisions of the Tamil Nadu Land Reforms (Ceiling of Agricultural Land) Act, 1961 (for brevity "the Act"). The impugned order is liable to be set aside on the ground of inordinate delay and laches and utter disregard to the principles of natural justice. The allegation made against the petitioner is that he has sold certain extent of property to a third party which is clear prohibition under Rule 9(1)(iii)(a) of the Tamil Nadu Reforms (Disposal of Surplus Land) Rules, 1965, and therefore, the authority has cancelled the assignment granted in his favour.

3. It is not in dispute that the lands in question were assigned to the petitioner on 15.05.1982 in all probability by reckoning the fact that the petitioner has been in possession of the said property ever since 1975. The petitioner would admit that he has already sold only a meagre extent of the property, namely, 23cents in the year 1993 in favour of certain third parties owing to certain financial constraints. Thereafter, on realizing that the sale could not have been made, the petitioner said to have cancelled the sale deed and the property has been reconvened in favour of the petitioner and he continues to be in possession and enjoyment of the cultivable lands. On 16.10.1995, the respondent issued a show cause notice to the petitioner calling upon him as to why the assignment should not be cancelled. The petitioner said to have submitted his reply on 02.11.1995 setting out the aforesaid facts. Thereafter, nothing has happened for about 15 years and all of a sudden, the respondent has passed the impugned order. The impugned order, though refers to the reply dated 02.11.1995 of the petitioner, does not deal with the contentions raised therein. Reading of the impugned order would show that there is a non-speaking order, bereft of material and in violation of the principles of natural justice, since no opportunity was granted to the petitioner. That apart, show cause notice dated 16.10.1995 remained unadjudicated for about 15 long years. Therefore, it is inequitable to say that the petitioner has not been in possession of the land assigned to him in the year 1982.

4. Thus, for all the reasons stated above, this Court is inclined to interfere with the impugned order and accordingly, the impugned order is set aside. However, if the competent authority is of the view that the proceeding needs to be initiated, it would be open to them to do so in accordance with law and the petitioner would also be entitled to raise all the contentions including the contention of cancellation of assignment cannot be initiated after such a long lapse of time. In fine, the writ petition stands allowed. No Costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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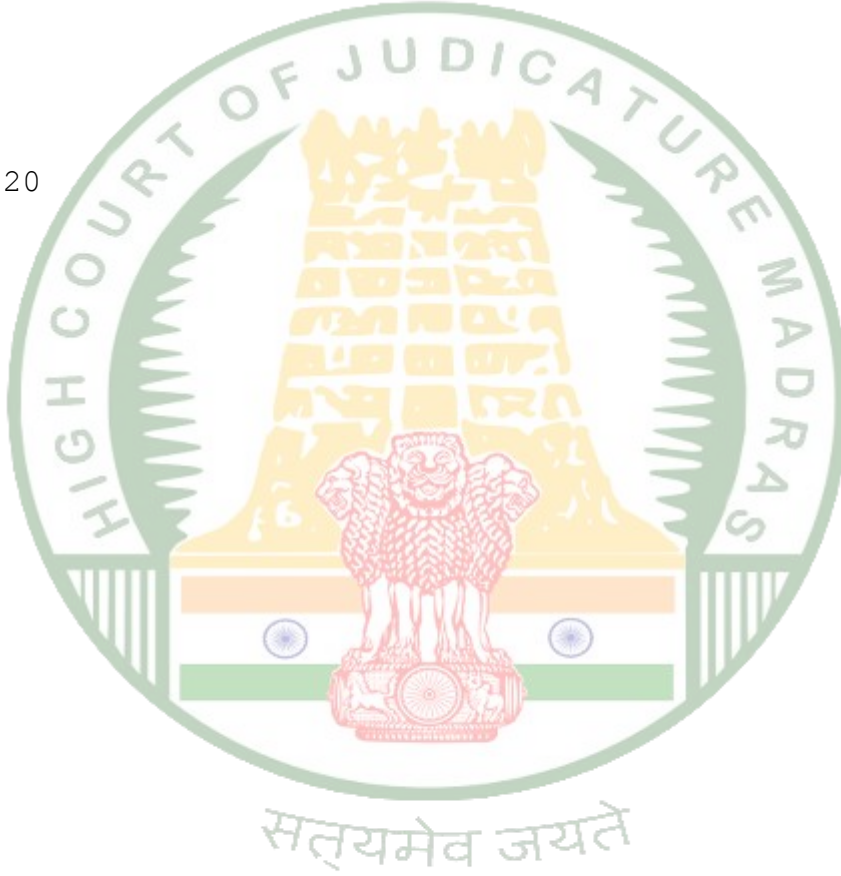
To

The Assistant Commissioner,
Land Reforms,
Villupuram,
Villupuram District.

+1 cc to Mr.G.Rajan Advocate sr4575
+1 cc to the Government Pleader sr4773

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