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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2021

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

W.A.No.1304 of 2019

Pillappa

... Appellant

VS

1. The Government of Tamil Nadu,
Rep by the Secretary to the Government,
Revenue Department,
Fort St.George, Chennai - 600 009.
2. The Special Commissioner and Commissioner of
Land Administration, Chepauk, Chennai 600 005.
3. The District Revenue Officer,
Dharmapuri, Dharmapuri District.
4. The Tahsildar,
Hosur, Krishnagiri District.

... Respondents

Prayer: Writ Appeal filed under clause 15 of the Letters Patent against the order dated 26.09.2018 passed in W.P. No.39738 of 2004 on the file of this Court.

Prayer in W.P. No.39738 of 2004: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of certiorari to call for the records relating to the impugned order of the first respondent in G.O.Ms.No.284, Revenue (Ni.Mu.3(2)) Department dated 10.06.2004 confirming the order passed by the second respondent in proceedings No.G-1/3108/2000 dated 25.09.2001 and quash the same.



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For Appellant : Mr.P.Mohanraj

For Respondents : Mr.T.Arunkumar,
Government Advocate

JUDGMENT

[Judgment of the Court was delivered by T.RAJA, J.]

This writ appeal has been directed against the impugned order dated 26.09.2018 passed in W.P. No.39738 of 2004.

2.Learned counsel appearing for the appellant submitted that when the original assignee, namely, the appellant's paternal grandfather Muniappa was issued with Assignment Order dated 11.10.1981, there was no patta land in the name of the assignee. However, the Sub-collector, Hosur, by an order dated 20.08.1987, cancelled the said assignment on the ground that the land assigned to his grandfather was entered in Prohibitory Orders Book, without giving any reasonable opportunity to defend his case. When the matter was taken up by way of Appeal before the District Revenue Officer, the third respondent herein, accepting the case of the appellant that the Sub Collector has passed cryptic order, without following the principles of natural justice, the District Revenue Officer, the third respondent herein, set aside the order passed by the Sub Collector and allowed the above Appeal. Against the said order, one Mr.Sonnappa, a resident of the above village, preferred an appeal before the Special Commissioner and Commissioner of Land Administration, Chepauk, Chennai, the second respondent, who, by his proceedings in D.Dis.No.(G)/11471/90, dated 01.02.1994, has set aside the order passed by the District Revenue Officer, the third respondent herein and cancelled the assignment on the ground that the legal heirs of the deceased Muniappa are having lands more than the extent prescribed for free assignment. Challenging the order passed by the second respondent, the appellant and his brother filed a writ petition in W.P.No.16282 of 1994 and this Court, allowed the writ petition and set aside the order passed by the second respondent on the ground that the order has been passed without issuing any notice to the appellant. However, liberty was granted to the respondents to



proceed afresh, after issuing notice to the appellant. Thereafter, the second respondent, after issuing notice and hearing the parties, passed an order dated 25.09.2001, setting aside the order passed by the third respondent, thereby confirming the earlier order dated 01.02.1994. Against which, the appellant filed a Revision before the first respondent, who has rejected the revision petition by G.O. Ms. No.284, Revenue Department dated 10.06.2004. Challenging the same, the above writ petition has been filed.

3.Learned counsel appearing for the appellant further submitted that as the original assignee was assigned the land since he was in possession and enjoyment from 1966 onwards and that the assignment was made in the year 1981, there is no justification for cancelling the assignment on the ground that the land is used for public purpose and that the legal heirs of the deceased Muniappa are having lands more than the extent prescribed for free assignment. Since these aspects have been completely overlooked by the learned Single Judge, the impugned order passed by the learned Single Judge is required to be interfered with.

4.Opposing the above submissions, learned Government Advocate appearing for the respondents submitted that the assignee Muniappa's family has got 3.57 acres of patta lands in Onnalavadi Village, at the time of assignment and therefore, the said Muniappa is not entitled for assignment of lands as his family members owned 3.57 acres of patta land in Onnalavadi Village. Therefore, the learned Single Judge has passed the above impugned order, which needs no interference.

5.It is seen from the records that an extent of 1.79.0 Hectare of Onnalavadi Village, Hosur Taluk, Krishnagiri District was classified as Assessed Waste Dry in Government records and there were four encroachments in the said survey numbers, out of which, the appellant's grand father Muniappa was one of the encroacher to an extent of 1.97 acres. Thereafter, the said Muniappa applied for assignment of the land and the then Tahsildar, Hosur, granted assignment to an extent of 1.97 acres in his favour, whereas, the land was entered into the Prohibitory Order Book, as per the order passed by the Sub-collector, Hosur in and by his proceedings in D.Dis.8625/25 dated 25.12.1925. While assigning the land in favour of the said



Muniappa, the Tahsildar, Hosur, has inadvertently failed to note the entry made in the prohibitory order book as "Reserved from Assignment". However, the Sub-collector, Hosur, during the Jamabandhi has noticed the irregular assignment made in favour of Muniappa and initiated action for cancellation of the assignment and after giving ample opportunity to the appellant, he has passed an order cancelling the assignment. Thereafter, the appellant has filed an appeal against the order of cancellation before the District Revenue Officer, the third respondent, who, by his proceedings in Roc.111035/87 Z2 dated 29.11.1988, allowed the appeal and set aside the order passed by the Sub Collector. Challenging, the above said order, one Sonnappa, preferred an appeal before the Commissioner of Revenue Administration, Chennai and the same was allowed by an order dated 01.02.1994, thereby cancelling the order passed by the third respondent. Against the order passed by the Special Commissioner and Commissioner of Land and Administration, the appellant and his brother filed a writ petition before this Court in W.P.No.16282/1994 and this Court by an order dated 18.04.2001 allowed the writ petition with liberty to the second respondent to proceed afresh after giving opportunity to the appellant. After giving appropriate opportunity to the appellant, the Commissioner of Revenue Administration once again passed an order dated 18.04.2001, thereby confirming his order dated 01.02.1994. Against the said order, the appellant filed a revision petition before the first respondent, who has confirmed the order passed by the Commissioner of Revenue Administration by order dated 10.06.2004. However, the land has been entered into a prohibitory order book and necessary entries were made in the revenue records to the effect stating as "reserved for assignment" in the year 1925 itself. But, the Tahsildar, Hosur, without verifying the records properly, has inadvertently assigned the land in favour of the appellant's grandfather. Subsequently, the Sub-Collector on the inspection during the Jamabandhi, finding out some irregularities that the said land was entered into prohibitory order book, cancelled the assignment. Moreover, the assignee Muniappa's family has got 3.57 acres of patta lands in Onnalavadi Village, at the time of assignment and that the said Muniappa is not entitled for assignment of lands as his family members owned 3.57 acres of patta land in Onnalavadi village. A perusal of the above proceedings dated 01.02.1994 issued by the Special Commissioner and Commissioner of Land Administration, Chennai shows that the



family members of the said Muniappa are having the following lands which are extracted as under:

பெயர்	பட்டா எண்	புல எண்	பரப்பு
			செ.ஹெக்டேர்
முனியப்பா மகன்	707	836/12	0.08.0
ராமையா முதலானோர்	707	862/ஏ1	0.49.0
	684	836/1	0.02.5
	1420	862/ஏ3பி	0.04.5

			0.64.0

2.ராமையா மனைவி	427	809/பி2ஏ1	0.70.0
பவானியம்மாள்		809/பி2பி2	0.05.0
3.பவானியம்மாள்	634	852	0.03.0
முதலானோர்		853/2	0.02.0
		853/3	0.04.0
		853/4	0.11.5
		873/1ஏ	0.31.5

			1.27.0

4.பில்லப்பா (1)	1051	848/1	0.12.0
பேட்ராயப்பா (2)		848/2	0.04.0
நாராயணப்பா (3)		850/1ஏ	0.03.0
த/பெ.ராமையா			
முனியப்பாவின் பேரன்கள்	120	853/1	0.24.5
		849/1	0.28.5

			0.72.0

6.However, the Special Commissioner in his Proceedings dated 01.02.1994 has stated that the original assignee was not having any land, but his family members are owning the above lands in possession. Since such an inconsistent finding of facts have been given against the appellant, it goes without saying that the appellant's family was having huge land, hence, we are unable to interfere with the same. Therefore, this Writ Appeal



is liable to be dismissed. Accordingly, this Writ Appeal stands dismissed. No costs.

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Sd/-
Assistant Registrar (CS-LA)

// True Copy //

Sub Assistant Registrar

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To

1. The secretary to the Government,
Government of Tamil Nadu,
Revenue Department,
Fort St.George, Chennai - 600 009.
2. The Special Commissioner and Commissioner of
Land Administration, Chepauk, Chennai 600 005.
3. The District Revenue Officer,
Dharmapuri, Dharmapuri District.
4. The Tahsildar,
Hosur, Krishnagiri District.

+1CC to M/s.P.Rajendran, Advocate, SR.No. 50150
+1CC to The Government Pleader, SR.No. 50551

W.A.No.1304 of 2019

RLD(CO)
B.VC (09/11/2021)