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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2021

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI
W.A.No.2485 of 2019 and CMP.No.16215/2019

S.Veera Raghavan

...Appellant/Petitioner

-vs-

1. The Commissioner and Special Commissioner of Land Administration, Chepauk, Chennai-600 005.
2. The District Collector, Kancheepuram District.
3. The Joint Commissioner (Land Reforms), Villupuram.
4. The Assistant Commissioner-cum-Assigning Officer (Land Reforms), Villupuram.
5. The Special Tahsildar (Land Reforms), Tambaram Taluk, Kancheepuram District.
6. The Revenue Divisional Officer (Land Reforms), Chengalpattu Taluk, Kancheepuram District.
7. Vasantha
Tmt.Bhoopathi (Deceased)
8. N.Mohan
9. N.Raman
(RR 9, 10 therein impleaded as per order dated 23.04.2015 made in M.P.No.1/2012 in W.P.No.18380 of 2008)



10.Lalitha

11.Lidiya

12.Baby

13.Revathy

14.Rani

15.Prabu @ Kirubakaran

16.Deisy Kalaiselvi

... Respondents/Respondents

(Respondents 11 to 17 were substituted as legal heirs of the deceased 8th respondent as per the order dated 25.06.2019 in W.M.P.No.22931/2018 in WP.18380/2008)

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the Order of the learned Single Judge made in W.P.No.18380/2008 dated 01.07.2019.

Prayer in W.P.No.18380/2008: Petition filed under Article 226 of the constitution of India to issue a Writ of Certiorarified Mandamus to call for the entire records pertaining to the impugned Notice vide Rc.No.A1/761/2008 dated 14.07.2008 issued by the 3rd respondent and quash the same and consequently direct the respondents forbearing them from any way disturbing the petitioners peaceful possession and enjoyment of the property having an extent of 1.21 acres comprised in survey No.59/02 in 23 Vengadamangalam village, Chengalpattu Taluk, Kancheepuram District consequently not to dispossess the petitioner without due process of law.

For Appellant : Mr.V.Raghavachari
for M/s.Thangavel Ma.P.

For respondents : Mr.T.Arunkumar,
1 to 6 Government Advocate

For 7th respondent : Mr.R.Rajarajan

For respondents : Mr.T.Mohan
10 to 16

RR 8 and 9 givenup



JUDGMENT

(Judgment of the Court was pronounced by T.RAJA.J)

This Writ Appeal has been filed, challenging the correctness of the impugned order passed in W.P.No.18380/2008 dated 01.07.2019 by a learned Single Judge of this Court.

2. The case of the appellant is that out of the hard earned money, he purchased agricultural lands to an extent of 1 acre 88 cents in S.No.59/2 at 23, Vengadamangalam Village, Chengalpattu Taluk, Kancheepuram District, for a valuable sale consideration of Rs.56,400/- from one Egan S/o.Murugan by a registered sale deed dated 17.07.1989 registered as Document No.2108 of 1989 in Book No.1 on the file of the Sub-Registrar, Guduvancheri and he was in continuous possession and enjoyment of the said lands from the date of his purchase. Thereafter, the Deputy Zonal Tahsildar issued patta No.103 for the said lands. Subsequently, out of the total extent of 1.88 acres, the appellant sold an extent of 0.45 cents of lands to one Ponnammal by a registered Sale Deed dated 04.10.2004 and further sold an extent of 0.22 cents to one Mahalakshmi by a registered Sale Deed dated 06.03.2006 and as such, he is in possession of the remaining 1.21 acres of land and patta, chitta and adangal documents issued by the Deputy Zonal Tahsildar, Chengalpattu stand in the name of the appellant only.

3. The further case of the appellant is that during March, 2008, he came to know that the lands to an extent of 1.00 acres and 0.88 cents comprised in S.No.59/2 were assigned to one Vasantha and Bhoopathy by the Proceedings of the Assistant Commissioner (Land Reforms), Villupuram dated 11.06.1993, without any notice or opportunity of personal hearing to him. Immediately, the appellant filed his detailed representation dated 20.03.2008 to the respondents 1 to 6 for cancellation of the alleged assignment of the said lands in the name of Vasantha and Bhoopathy followed by an objection dated 15.4.2008 enclosing all the relevant documents showing his ownership. But there was no response from the respondents 1 to 6.

4. It is also the case of the appellant that the 3rd respondent, without considering his representation and with malafide intention, colluding with the said Vasantha and Bhoopathy/respondents 7 and 8 in the writ petition, called upon the appellant for enquiry along with documents to prove his ownership on 19.5.2008. Accordingly, the appellant has also participated in the said enquiry and produced all the relevant documents showing his ownership to the lands-in-question. However, the 3rd respondent issued the impugned notice dated 14.07.2008 stating than an extent of 4.38 acres in S.Nos.57/3



and 59/2 of Vengadamangalam Village were assigned in favour of the assignees vide proceedings dated 11.6.1993. Aggrieved by the same, the appellant herein has filed W.P.No.18380/2008 before the learned Single Judge of this Court and the same was dismissed by order dated 01.07.2019. Therefore, the present Writ Appeal came to be filed.

5. Learned Counsel appearing for the appellant heavily assailing the findings and conclusions reached by the learned Single Judge contended that the dismissal of the writ petition mainly on the ground that the writ petitioner/appellant herein has not questioned the correctness of the cancellation of the assignment order, is untenable in law as the same has not been communicated to him. He further contended that yet another reason assigned by the learned Single Judge that after the cancellation of the assignment, conveying the lands-in-question in favour of the appellant by his vendor, cannot be legally acceptable for the simple reason that when the appellant has purchased the lands-in-question from his vendor Mr.Egan through a registered Sale Deed dated 17.07.1989, i.e. the lands covered in S.No.59/2 in 23, Vengadamangalam Village, Chengalpattu Taluk, Kancheepuram District, has not questioned the cancellation of the original assignment order, which is highly unfair since the said Egan, the vendor of the appellant is no more. Therefore, it is highly unimaginable to think that the dead person ought to have been challenged the order of cancellation; equally, it is also unimaginable for the appellant to question the same when the lands-in-question were not assigned to him, he contended.

6. Learned Government Pleader appearing for the respondents 1 to 6 submitted that without challenging the cancellation of the original assignment order, the appellant has filed the writ petition challenging the consequential notice dated 14.07.2008 which was rightly dismissed by the learned Single Judge. Therefore, the present Writ Appeal is liable to be dismissed.

7. Learned Counsel appearing for the respondents 10 to 16 submitted that the writ petition itself is not at all maintainable before this Court because the appellant without filing an appeal or revision before the appropriate forum as contemplated under the Tamil Nadu Land Reforms (Disposal of Surplus Lands) Rules, 1965, approaching this Court and challenging the consequential notice is unsustainable, however, the same is dismissed by the learned Single Judge. Therefore, the Writ Appeal is liable to be dismissed.

8. Heard the learned Counsel for the 7th respondent who also prays to dismiss the present appeal.



9. Admittedly, the appellant herein/writ petitioner purchased the lands-in-question in the year 1989. However, it appears that an extent of 2.50 acres in S.No.57/3B and 1.88 acres in S.No.59/2A1 were declared as surplus under the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 and assigned in the year 1975 to landless agricultural labourers under the Tamil Nadu Land Reforms (Disposal of Surplus Lands) Rules, 1965. Thereafter, it also appears that the assigned lands were ordered to be resumed to the Government in the year 1979. The provisions of the Tamil Nadu Land Reforms (Disposal of Surplus Lands) Rules, 1965, makes it clear that if any condition is violated in respect of the lands vested with the Government, the Government is entitled to cancel the assignment. When this is the settled legal position, we are unable to accept the submissions of the learned Counsel for the appellant that the cancellation of assignment order came to be passed. Further, it also appears that the appellant was issued with a notice dated 28.04.2008 informing him to appear for enquiry on 19.05.2008 at 10.00 a.m., that notice clearly mentions that an extent of 4.38 acres in S.Nos.57/3 and 59/2 of Vengadamangalam Village, Chengalpattu Taluk were assigned vide proceedings dated 11.6.1993 in favour of five persons viz. (a) Mohan (b) Gunasundari (c) Vasantham (d) Paripooranam and (e) Boopathy. Therefore, when the said property which is alleged to have been purchased by the appellant was already assigned to the aforementioned persons, it is legally presumed that the writ petitioner/appellant herein was well aware of the fact that the lands-in-question which is said to have been purchased by his vendor Egan was already assigned to the aforesaid persons. Therefore, he ought to have questioned the cancellation order which he has not done so till now, hence, we find no merit in the present Writ Appeal.

10. In the result, the Writ Appeal fails and the same is accordingly dismissed thereby confirming the order of the learned Single Judge in W.P.No.18380/2008 dated 01.07.2019. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner and Special Commissioner of Land Administration, Chepauk, Chennai-600 005.

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2. The District Collector, Kancheepuram District.
3. The Joint Commissioner (Land Reforms), Villupuram.
4. The Assistant Commissioner-cum-Assigning Officer (Land Reforms), Villupuram.
5. The Special Tahsildar (Land Reforms), Tambaram Taluk, Kancheepuram District.
6. The Revenue Divisional Officer (Land Reforms), Chengalpattu Taluk, Kancheepuram District.

+1CC to Mr.K.Balu, Advocate, Sr.No.50988

+1CC to Mr.R.Rajarajan, Advocate, Sr.No.51067

+1CC to Mr.Ma.Pa.Thangavel, Advocate, Sr.No.51208

W.A.No.2485/2019

VG II (CO)

K.RK. (11.11.2021)