



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.07.2021

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

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W.P. (MD) .Nos.8726 and 8727 of 2014
and M.P. (MD) .Nos.1 and 1 of 2014

S.N.Arunachalam ... Petitioner in W.P.(MD) .
No.8726 of 2014

Thilagavathi ... Petitioner in W.P.(MD) .
No.8727 of 2014

Vs.

1. The District Collector,
Sivagangai District,
Sivagangai.

2. The Revenue Divisional Officer,
Sivagangai District,
Sivagangai.

3. The Special Tahsildar,
Sivagangai,
Sivagangai District.

... Respondents in both
petitions

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, calling for the records pertaining to the impugned order of the 2nd respondent, dated 18.10.2002, made in Na.Ka.No.A1/1297/2001 and Na.Ka.No.A1/1296/2001 and quash the same.

For Petitioner : Mr.R.Vijayakumar
For Respondents : Mr.M.Lingadurai for R1 and R2
Government Advocate
(In both cases)

COMMON ORDER

The issue involved in both the writ petitions are common and hence, they are taken up together, heard and disposed of through this common order.

2.The subject matter of challenge in both the writ petitions is the impugned orders passed by the second respondent, dated 18.10.2002, wherein, the assignment that was granted in favour of the petitioners has been cancelled.



3.Heard Mr.R.Vijayakumar, learned counsel appearing for the petitioners and Mr.M.Lingadurai, learned Government Advocate appearing for the respondents in both petitions.

4.The case of the petitioners is that they were assigned the subject properties by virtue of the proceedings of the third respondent, dated 14.05.1999. The further case of the petitioners is that they were in possession and enjoyment of the property and after the expiry of 10 years, they also sold a portion of the property to a third party by virtue of a registered sale deed, dated 01.06.2011.

5.It is stated that the revenue records also stood in the name of the petitioners and they were also paying the kists for the properties.

6.While so, the petitioners came to understand that the property that was assigned in their favour stood cancelled by virtue of the impugned proceedings of the second respondent, dated 18.10.2002. According to the petitioners, this cancellation order was passed without notice to the petitioners and without giving them any opportunity.

7.A careful reading of the impugned order passed by the second respondent shows that the assignment has been cancelled on the ground that the original order of assignment was in violation of G.O.Ms.No.376, (Revenue), dated 08.03.1988, since the land that was assigned was within 16 kilometers from the District Head Quarters. The specific case of the petitioners is that the lands that were assigned to them is beyond 16 kilometers and if an opportunity had been given to them, the same could have been established.

8.The assignment order that was passed in favour of the petitioners created a right in favour of the petitioners. If that right is sought to be cancelled, at least a notice could have been issued to the petitioners and they should have been given an opportunity. It is now well settled that any action that is taken by the authorities which results in civil consequences, it can be sustained only if it satisfies the principles of natural justice. In the present case, the principles of natural justice has been violated and the petitioners have faced an adverse order without proper notice.

9.In view of the above, the impugned proceedings of the second respondent, dated 18.10.2002, in each of the writ petition is liable to be quashed and the same is hereby quashed. The petitioners are directed to give their explanations to the second respondent, within a period of four weeks from the date of receipt of a copy of this order. The second respondent on receipt of the same, after affording opportunity to the petitioners, shall pass final orders,
 <https://www.hcma.gov.in/ncs/index> of eight weeks thereafter.



10.Both the writ petitions are allowed with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

TM

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The District Collector,
Sivagangai District,
Sivagangai.
2. The Revenue Divisional Officer,
Sivagangai District,
Sivagangai.
3. The Special Tahsildar,
Sivagangai,
Sivagangai District.

+2 CC to M/s.R.VIJAYA KUMAR, Advocate (SR-23269 & 23270[F] dated 20/07/2021)

**W.P. (MD) .Nos.8726 and 8727 of 2014
19.07.2021**

RC (27.07.2021) 3P-6C