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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2022

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.11416 of 2011

and

MP No.2 of 2011

A. Vellaichamy (Deceased)

2. V. Meenambal

3. Nagammal

4. V. Dharmaraj

5. V. Raja

6. Punitha

7. Poorani

... Petitioners

P2 to P7 are substituted as LR's of
the deceased P1 vide order dt.

23.01.19, made in W.M.P. No.112/18

Versus

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

2. The District Revenue Officer,
Ramanathapuram,
Ramanathapuram District.

3. The Tahsildar,
Paramkudi
Ramanathapuram District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorari in the nature of a writ, call for the records in the impugned order R.C.G2/1609/2009, dated 25.02.2011 of the 1st respondent and quash the same.

For Petitioners : Mr.G. Krishnakumar

For Respondents : Mr.T. Chezhiyan
Addl. Government Pleader



ORDER

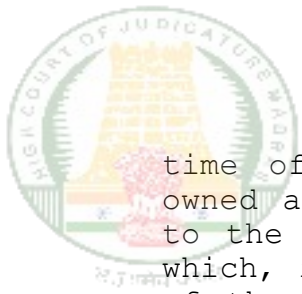
For quashment of the impugned proceedings in R.C.G2/1609/2009, dated 25.02.2011 passed by the 1st respondent, this writ petition has been filed.

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2. It is the case of the petitioners that originally under the scheme of assignment of lands to landless poor, the 3rd respondent passed proceedings in D.A. No.101/94, dated 4.3.85, whereby assigning 02.20.0. Hec. in S. No.257/2 and 0.33.5 Hec. In S. No.257/4, Urappuli Group, Paramakudi taluk, Ramanathapuram District, by assigning lands to the original petitioner, after conducting due enquiry. The said land assigned to the original petitioner was agricultural land. While so, it is averred that the 1st petitioner raised seasonal crops in his land but entries to that effect were not made in the adangal extract. Hence, he submitted representation to the 3rd respondent to make necessary entries in the revenue records and for issuance of 10(1) extract to him. It is the further case that at the time of assignment, the original petitioner did not own any property in his name and after his father's demise, joint patta was issued in his name and his brother's name. It is further stated that he borrowed loan from Agricultural Co-operative bank in order to develop the lands and he has not attempted to alienate the said land / violated any of the conditions prescribed in assignment order.

3. It is further averred that all of a sudden, the 2nd respondent issued show cause notice dated 20.09.2005 to the original petitioner, calling upon him to submit explanation for violation of conditions and also as to why the assignment should not be cancelled. It is the case of the petitioners that though detailed explanation was submitted, without considering the same, the 2nd respondent cancelled the assignment order vide proceedings dated 22.10.2008, which is illegal and arbitrary. Challenging the said cancellation order, writ petition was filed before the Madurai Bench of this Court in W.P. (MD) No.12068 of 2008 and later on disposal of the said writ petition, the petitioner came to know about the appeal provision. At this juncture, the petitioner preferred appeal before the 1st respondent and also sought for stay of the operation of the said cancellation order. That being so, it is their grievance that the 1st respondent, mechanically passed the impugned order, confirming the order of the 2nd respondent for cancellation of the said assignment. Challenging the impugned order passed by the 1st respondent, this writ petition has been filed. Pending writ petition, the original petitioner died and petitioners 2 to 7 were substituted as Legal Heirs of the deceased original petitioner.

4. Learned counsel for the petitioners submitted that at the



time of assignment of lands, the original petitioner has not owned any lands. Further, he drew the attention of this Court to the proceedings of the 3rd respondent dated 02.05.2002, from which, it is clear that the original petitioner is in possession of the lands and cultivating the lands assigned to him. That apart the original petitioner has also submitted a detailed explanation to the show cause notice dated 20.09.2005 issued by the 2nd respondent, whereas the 2nd respondent without considering the facts, erroneously has passed the proceedings dated 22.10.2008 cancelling the assignment granted in favour of the original petitioner. He further argued that the original petitioner is cultivating crops in the assigned land and he has not suppressed any facts, more so, he is not in possession of any land at the time of assignment. He also submitted that apparently, without any justification and without even considering the grounds raised in the appeal, the 1st respondent has passed the impugned order, which is unsustainable. Mere rejection and confirming the order of the 2nd respondent by the 1st respondent will lead to dispossession of the petitioners from the assigned land. Hence, he prays before this Court to set aside the impugned order dated 25.02.2011 passed by the 1st respondent and thereby allowing the instant writ petition.

5. Mr.T. Chezhiyan, learned Additional Government Pleader fairly submitted that the petitioners were assigned subject land under the category of "land less poor category". However, he denied the submissions made by the learned counsel for the petitioners in respect of suppression of facts by the petitioners with regard to holding of existing lands, which is a clear violation of conditions stipulated in the said assignment. The 3rd respondent after due inspection has stated in his report that the petitioner did not cultivate the lands assigned to him from the date of assignment i.e., on 04.03.1985, and after providing due opportunity by way of sending notice to the petitioner, the 2nd respondent has passed the order of cancellation of assignment on 22.10.2008. Likewise, the 1st respondent has passed the proceedings dated 25.02.2011, confirming the order of the 2nd respondent only after considering all grounds as well as abiding by all due procedures contemplated under law. Accordingly, he submits that the order passed by the 1st respondent is a valid and legally sustainable one and thus, it calls for no interference of this court and prays for dismissal of this writ petition.

6. This Court heard and considered the submissions made by the learned counsel on either side and perused the materials placed before it.

7. It is an admitted fact that the petitioners were originally assigned land under the scheme "land less poor".



Though it is stated that the original petitioner was not holding any land in his name prior to the said assignment and cultivating the lands by raising crops, no proof has been submitted to substantiate the said claim. If really the claim of the petitioner that he was cultivating in the said lands is true, the petitioner ought to have submitted adangal extracts in support of his stand. Though the lands were assigned in the year 1984, which were cancelled during the year 2008, more than two decades had passed, but the petitioners are not in possession of any adangal extracts, though it is the claim of the petitioners that they were cultivating the lands and that the original petitioner was cultivating seasonal crops.

8. In the aforesaid backdrop, a perusal of records reveal that after proper inspection, it was ascertained by the 3rd respondent that the said lands were not being utilised for the purpose for which it was assigned. Therefore, after issuing necessary notice to the original petitioner, the assigned lands were cancelled by the 2nd respondent vide order dated 22.10.2008.

9. Further, it is also to be pointed out that in the appeal preferred by the petitioner before the competent authority, the 1st respondent, on appreciating the entire materials available on record, had confirmed the order passed by the 2nd respondent. Thus it is crystal clear that the petitioners without establishing the cultivation carried out by them in the assigned lands by way of producing chitta and adangal extracts, before the original authority or the appellate authority, cannot come before this Court, by way of this writ petition, to claim that the cancellation of the assignment granted in favour of the petitioners is unsustainable.

10. The impugned order does not suffer the vice of any illegality, arbitrariness or unreasonableness; rather, the said order has been passed after thorough consideration of all the materials and, therefore, the impugned order dated 25.02.2011 is liable to be sustained.

11. For the reasons aforesaid, this writ petition is devoid of any merits and, accordingly, the same is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar



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

2. The District Revenue Officer,
Ramanathapuram,
Ramanathapuram District.

3. The Tahsildar,
Paramkudi
Ramanathapuram District.

+1cc to Mr.G. Krishnakumar, Advocate, S.R.No.14360

+1cc to the Government Pleader, S.R.No.14582

W.P. No.11416 of 2011

BR (CO)
CT 04/04/2022