



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

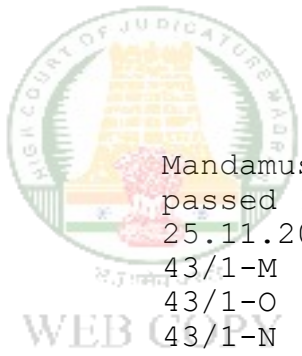
W.P.Nos.2372 to 2375 of 2006

K.M.Bangaru Raju	...Petitioner in W.P.NO.2372 of 2006
K.M.Vijayasekaran	...Petitioner in W.P.No.2373 of 2006
A.Kumarasami	...Petitioner in W.P.No.2374 of 2006
E.Mercy Reeta Bai	...Petitioner in W.P.No.2375 of 2006

Vs.

1. The Revenue Divisional Officer,
Gobichettypalayam,
Erode District.
2. The Special Tahsildar,
Land Assignment (Coimbatore),
R.E.Office, Sathiyamangalam.
3. The Tahsildar (Revenue),
Sathiyamangalam,
Erode District.
4. The District Collector,
Erode, Erode District. ...Respondents in all petitions
5. Mr.Palaniyappan
6. Mariammal
7. Harindiran ...Respondents 5 to 7 in W.P.NO.2372 of 2006
5. Narayanasamy
6. V.Natarajan
7. A.Nagappan ...Respondents 5 to 7 in W.P.NO.2373 of 2006
- 5.Raju Naidu ...5th respondent in W.P.No.2374 of 2006
- 5.D.Esra ...5th respondent in W.P.No.2375 of 2006

COMMON PRAYER: The Writ Petition filed under Section 226 of Constitution of India, pleased to issue a Writ of Certiorarified



Mandamus to call for the records relating to the impugned order passed by the first respondent bearing Na.Ka.8004/2004/A3 dated 25.11.2005 and quash the same in so far as Survey No.43/1-L 43/1-M and 43/1-Q (W.P.NO.2372 of 2006), 43/1-K 43/1-P and 43/1-O (W.P.NO.2373 of 2006), 43/1-G (W.P.NO.2374 of 2006), 43/1-N (W.P.NO.2375 of 2006).

For Petitioners in all W.Ps : Mr.B.Gopalakrishnan for
Mr.B.Kumarasamy

For RR1 to 4 in all petitions : Mr.G.Nanmaran
Special Government Pleader

Common Order

Since the issues arise in the present cases are one and the same, all petitions are disposed of by way of this common order.

2.The case of the petitioners is that the petitioners are in possession and enjoyment of the agricultural lands measuring the above extent and the petitioners have purchased the above said agricultural lands by way of various Sale Deeds on various dates and the petitioners have approached the 1st respondent to issue transfer of patta and the same was also issued. It is the case of the petitioners that the agricultural lands were originally assigned to the private respondents under land assignments scheme (settlement) by the proceedings of the 2nd respondent dated 12.06.1978 and thereafter it sold in favour of the petitioners. While so, the 2nd respondent by his proceedings dated 25.11.2005, had cancelled the original assignments. Aggrieved by the same, the present petitions have been filed by the petitioners.

3.The learned counsel appearing for the petitioners submitted that original assignment was in the year 1978, however, alienation was only from the year 1996 onwards, ie., after 18 years and as per the condition nos.8 and 10 of the assignment, the respective assignees should not alienate the property within a period of ten years and they have to cultivate the land within a period of three years and the said twin conditions have already been complied. The lands were cultivated within a period of three years and the alienation was only after a period 19 years and hence the assignment is legally permissible and the same cannot be cancelled after 25 years from the date of assignment. Further, the parties are bound by the conditions imposed in the order of assignment dated 12.06.1978 and none of the conditions have been violated by the vendor. Therefore, in the absence of any violation, the assignment could not be cancelled after a lapse of 25 years and prays for



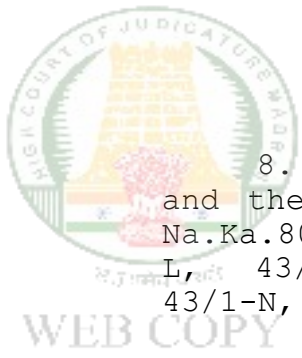
quashment of the impugned order.

4. The learned Special Government Pleader appearing for the official respondents submitted the lands were assigned to the assignees with a condition that the assignees should cultivate the land within a period of three years from the date of assignment, however the assignees have not cultivated the land within the stipulated period from the date of assignment and further the lands should be purchased from the assignees only with proper prior permission from the 1st respondent, but in this case, the subsequent purchasers / petitioners have not adhered to the rules before purchasing the lands from the original assignees. Since there is violations / breach of conditions, the lands were resumed by the 1st respondent vide proceedings dated 25.11.2005 and prays for dismissal of these petitions.

5. This Court has carefully considered the rival submissions and also perused the materials placed before it.

6. The materials on record reveal that the lands were assigned by the Special Tahsildar, Sathyamangalam, in the year 1978. As per the condition in the said Assignment, the barren lands should be cultivated within a period of three years and the assignees should not alienate the said land within a period of 10 years. In the present case, the assigned lands were alienated in favour of the petitioners from the year 1996 onwards, well after a period of 10 years, as contemplated. Subsequently, when the same was brought to the notice of the Revenue Divisional Officer, who in turn by the impugned proceedings dated 25.11.2005, had cancelled the assignment, stating that the conditions of the assignments have been violated.

7. It appears that the respective assignees have alienated the property in favour of the petitioners only from the year 1996 onwards and also cultivated the barren lands within a period of three years and complied the condition in the Assignment and also alienated the property only after the period of 10 years. No material whatsoever is placed by the respondents to substantiate that the twin conditions relating to assignment have not been complied with. Merely stating the same before this Court and submitting it in the form of counter would not suffice to hold that the conditions have not been complied with. When violations/breach of conditions have been put against the petitioners and the assignees, it is necessary for the respondents to place relevant materials to substantiate the same. In the absence of any material, this Court is of the considered view that the violations/breach of conditions, alleged by the respondents have not been made out, which warrants quashment of the the impugned order.



8. In view of the above, these Writ Petitions are allowed and the impugned order passed by the first respondent bearing Na.Ka.8004/2004/A3 dated 25.11.2005 in so far as Survey No/43/1-L, 43/1-M and 43/1-Q, 43/1-K, 43/1-P and 43/1-O, 43/1-G, 43/1-N, are quashed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sk

To

1. The Revenue Divisional Officer,
Gobichettypalayam,
Erode District.
2. The Special Tahsildar,
Land Assignment (Coimbatore),
R.E.Office, Sathiyamangalam.
3. The Tahsildar (Revenue),
Sathiyamangalam,
Erode District.
4. The District Collector,
Erode, Erode District.

+3cc to Mr.B.Kumarasamy, Advocate, S.R.No.13527, 13528, 13529

+1cc to the Government Pleader, S.R.No.14175

W.P.Nos.2372 to 2375 of 2006

VBM(CO)
RGA(06/04/2022)