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W.P.No.14417 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2022

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.14417 of 2016 and
WMP.Nos.12607 and 12608/2016

C.Lakshmi

.. Petitioner

Vs.

1.The Commissioner of Land Administration,
Ezhilagam, Chennai 5.

2.The District Collector,
Erode District, Erode.

3.The District Revenue Officer,
Erode District, Erode.

4.The Revenue Divisional Officer,
Erode.

5.The Tahsildar,
Perundurai Taluk,
Erode District.

.. Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying of issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the proceedings of the 4th respondent in Na. Ka. 3840/2013/A1 dt 4.12.2015 and quash the same as illegal incompetent and ultravires and consequently direct the 3rd respondent to allot the land in S. No. 136, Periyaveerasangili Village, Perundurai Taluk , Erode District, to an extent of 2.85 1/2 acres to the petitioner.



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For Petitioner : Mr.R.Jayaprakash

For Respondents : Mr.U.Baranidharan
Additional Government Pleader

ORDER

The petitioner has filed this petition for issuance of writ of Certiorarified Mandamus calling for the records pertaining to the proceedings of the 4th respondent dt 4.12.2015 and quash the same and consequently direct the 3rd respondent to allot the land in question to the petitioner.

2. The case of the petitioner is that the property in S.F.No.136, admeasuring an extent of 2.86 acres was originally assigned to one Gnanavasagam by way of Adi Dravidar conditional patta by an order dated 10.09.1929 and he sold the property to the petitioner vide Sale Deed dated 16.07.1974, who also belong to oppressed community in the Society and from the date of purchase, the petitioner is in peaceful possession and enjoyment. However it is the allegation of the petitioner that in the year 1994, her husband viz., Chidambaram had obtained signature from the petitioner in the blank stamp papers and sold the said property to one



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Sivashanmugam, who belong to Backward Class, on 30.05.1994. Hence, the 2nd respondent vide his proceedings dated 10.11.2012, had passed an order resuming the land to the Government. Aggrieved over the same, the petitioner had sent series of representations to the respondents, however no action has been taken so far and hence, the petitioner had filed W.P.No.28506/2015, to consider his representation and this Court vide order dated 10.09.2015, directed the competent authority to pass appropriate final orders on her representation after affording an opportunity to the petitioner. Pursuant to the same, the 4th respondent had conducted an enquiry and vide his proceedings dated 04.12.2015, had rejected the representation of the petitioner. Challenging the rejection order, the petitioner is before this Court.

3. The learned counsel appearing for the petitioner submitted that admittedly the petitioner had purchased the property from one Gnanavasagam / original assignee in the year 1974, however it is the grievance of the petitioner that without the knowledge of the petitioner, her husband alienated the property in favour of one Sivashanmugam and subsequently the land was resumed by the Government. It is further



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submitted that since the petitioner is a landless poor, she is entitled for assignment in her favour, in view of the fact that the alienation was done by her husband behind her back and he passed away in the year 1996 and further there is no legal impediment for the competent authority to assign the land in favour of the petitioner, since she also belongs to the oppressed community and prays for appropriate orders.

5. The learned Additional Government Pleader appearing for the respondents submitted that the above said punjai land have been conditionally assigned on free of cost to one Thiru.N.Gnanavaskam, who belongs to the Schedule caste as per the condition patta no.11 DR 39 dated 10.09.1929. Thereafter, on inspection, it was found that the petitioner herein and others has sold the above said land to different persons and the petitioner herein had sold her extent to one Thiru.Sivashanmugam. Since the sale was made in lucrative and greedy manner, which caused the violation of the condition of the Condition Assignment, the Revenue Inspector has submitted a report to the Tahsildar with recommendation for resumption of the above said land and the then Tahsildar, Perundurai has inspected the



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land and found that the violation of the condition was caused and submitted report to the Revenue Divisional Officer, Erode to resume the said land, who after issuance of appropriate notice to the purchaser viz., Sivashanmugam, informing that the Sale was occurred from the Scheduled Caste to the person belongs to other than the Scheduled Caste, ordered the Tahsildar, Perundurai to take action. On the order of the RDO, the Tahsildar has reported that the above extent of land are classified as 'Arasu Poromboke-natham' and recorded in the village accounts and thereafter the land has been under the control of the Government and the land was under the consideration to issue priceless house site patta to the houseless downtrodden peoples.

6. It is further submitted that in this dispute, the condition on the assignment was violated by the petitioner by selling the land without getting prior permission of the Government and thereby the petitioner has failed to adhere the conditions framed by the Government and therefore, without prior permission of the Government on the condition assignment, the transactions held in between the private parties will not bind the



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Government and hence, the impugned order passed by the 4th respondent is a well reasoned order and prays for dismissal of this petition.

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

8. Admittedly the punjai land in old SF.Nos.152A, 153 and 163A correlated to R.S.F.No.136, a total extent of 2.21.5 hectares in Periyaveerasangili Village, Perundurai Taluk, Erode District, have been conditionally assigned on free of cost to one Thiru.N.Gnanavaskam, who belongs to the Schedule caste. Though the petitioner claims that she belongs to the very same caste and purchased the property in the year 1974, the condition imposed in the assignment is that the land has to be alienated only to the depressed class community people, however contrary to the said condition, the petitioner has alienated the property in favour of non-depressed class people and hence, the Government had resumed the land and reclassified the same as 'Natham', in order to provide such lands to the landless poor and hence, the prayer sought for by the petitioner cannot be



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granted, since the petitioner herself is a violator of the condition of the Conditional Assignment and further she does not have right to get assignment from the Government.

9. For the reasons aforesaid, this Writ Petition is dismissed. No costs. Consequently connected miscellaneous petitions are closed.

08.11.2022

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M.DHANDAPANI,J.



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