



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 04.03.2022
CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.6037 of 2010 & W.P.No.1332 of 2004

1.M.Raju
2.M.Madhammal
3.M.Easwari
4.M.Muthu Manickam
5.M.Murthy
6.M.Vijayan ... Petitioners in W.P.No.6037 of 2010

1.P.Gunalan (Deceased)
2.G.Mallikeswari (Deceased) ... Petitioners in W.P.No.1332 of 2004
3.V.Shanthi
4.S.Sakila
5.V.Saraswathy
6.S.Shobana
7.Appu
(P3 to P7 substituted as LRs
of deceased Petitioners P1,P2
vide order dated 04/03/2022 made
in WMP.No.4295/2022 & WMP.27053/2016

Vs.

1.The Special Commissioner and Commissioner of
Land Administration,
Chepauk, Chennai-600005.

2.The District Revenue Officer,
Salem, Salem District.

3.The Tahsildar,
Yercaud Taluk,
Salem District.

4.P.Gunalan (Deceased)

5.G.Mallikeswari (Deceased) ... Respondents in W.P.No.6037 of 2010

6.V.Shanthi

7.S.sakila



8.V.Saraswathy

9.S.Shobana

10.Appu

(R6 to R10 Substituted as Lrs of deceased Respondents R4 and R5 vide order dated 04.03.2022 made in WMP.4295/2022 in WP.No.6037/2010)

1.The Special Commissioner and Commissioner of Land Administration,
Chepauk, Chennai-600005.

2.The District Revenue Officer,
Salem, Salem District.

3.The Tahsildar,
Yercaud Taluk,
Salem District.

4.M.Mariappan (Deceased)

5.M.Raju

6.M.Madhammal

7.M.Easwari

8.M.Muthu Manickam

9.M.Murthy

10.M.Vijayan

(R5 to R10 Impleaded as per order dated 16.09.2010 made in W.M.P.No.595 of 2010 in W.P.No.1332 of 2004)

...Respondents in W.P.No.1332 of 2004

Prayer in WP.No.6037 of 2010:Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the first respondent in Rc.No.F2/16116/03 dated 11.11.2003 confirming the order passed by the second respondent in R.Dis.2084/2000/K3 dated 23.4.2003 and quash the said orders and direct the respodnents 1 to 3 to reassign the land in S.No.15/7A to an extent of 0.83 acres and in S.No.15/7B to an extent of 0.81 acres situated in Potukadu Village Yercaud Taluk Salem district to the legal heirs of deceased Mariappan.



Prayer in WP.No.1332 of 2004:Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records pertaining to the orders passed by the 1st respondent in his proceedings RC.No.F2/16116/03 dated 11.11.2003 confirming the order passed by the 2nd respondent in his proceedings R.Dis 2084/2000/K3 dated 23.04.2003 and quash the same.

In W.P.No.6037 of 2010

For Petitioners	:Mr.J.Lakshmi Narayanan
For Respondents R1 to R3	:Mr.T.Chezhiyan, Additional Government Pleader
For Respondents 6 to 10	:Mr.S.Mani for M/s. CS Associates
R4 & R5	:Died

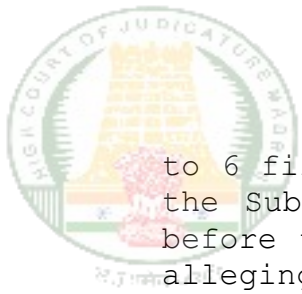
In W.P.No.1332 of 2004

For Petitioners	: Mr.S.Mani for M/s.C.S.Associates
For Respondents R1 to R3:	Mr.T.Chezhiyan, Additional Government Pleader
For Respondents R5 To R10	:Mr.J.Lakshmi Narayanan
R4	:Died

O R D E R

The petitioners have filed these writ petitions for quashment of the the impugned order of the 1st respondent in Rc.No.F2/16116/03 dated 11.11.2003 and consequently direct the respondents 1 to 3 in W.P.No.6037 of 2010 to re-assign the land in S.No.15/7A to an extent of 0.83 acres and in S.No.15/7B to an extent of 0.81 acres situated in Potukadu Village, Yercaud Taluk, Salem District to the legal heir of the deceased Mariappan.

2. The case is that the petitioners in both Writ Petitions are assignees and purchasers of the above said properties respectively. The said properties were originally assigned to the father of the assignees, namely one Mariappan on 24.09.1973 and he died on 08.05.2005. Prior to his demise, he sold the above said properties on 25.05.1983, that is within a period of ten years, which is contrary to the conditional assignment. Aggrieved by the same, the petitioners/assignees 4



to 6 filed a Partition Suit in O.S.No.787 of 1994 on the file of the Sub-Judge, Salem. Meanwhile, the assignees made application before the Revenue Divisional Officer as against the purchasers, alleging receipt of the properties by way of executing fraudulent documents, which resulted in the Revenue Divisional Officer initiating proceedings and cancelling the Patta granted in favour of the purchasers on the ground that the lands have been alienated even before the mandatory period of ten years. Thereafter, the suit was dismissed as not pressed, since the properties were re-assigned in the name of said Mariappan, as against which, the purchasers filed a Writ Petition in W.P.No.329 of 1996 before this Court and the same was allowed on 25.01.2002 remitting the matter to the 2nd respondent therein. Pursuant to the same, the 2nd respondent passed an order in his proceedings in R.Dis.2084/2000/K3 dated 23.04.2003 directing the 3rd respondent to cancel the assignment made in favour of the said Mariappan. Aggrieved by the said order, the father of the assignees and the purchasers filed Revision Petition before the 1st respondent and a common order was passed in proceedings in Rc.No.F2/16116/03 dated 11.11.2003 rejecting the Revision Petitions, confirming the order of the 2nd respondent, dated 23.04.2003. Challenging the same, these Writ Petitions are filed.

3. The learned counsel for the petitioners/assignees in W.P.No.6037 of 2010 submitted that their father mortgaged the disputed properties in favour of the purchasers on 25.05.1983. Taking advantage of the said mortgage deed, the purchasers grabbed the disputed properties from the assignees. It is further submitted that, without considering the fraudulent document, the Revenue Officials cancelled the assignment as against the assignees, which is not sustainable. Accordingly, he prays for allowing the petition.

4. The learned counsel for the petitioners/purchasers in W.P.No.1332 of 2004 submitted that the petitioners/purchasers, also belong to Scheduled Caste and they purchased the properties from the father of the assignees namely one Mariappan, who is also a Scheduled Caste person and such purchase between persons of the same caste, viz., Scheduled Caste is not in violation of the assignment. Hence, he prays for allowing the Writ Petition.

5. From a perusal of the materials available on record, it reveals that the Patta was granted in favour of the assignees in the year 1973. However, the assigned land were alienated in favour of the purchasers in the year 1983, that is, the properties were alienated by selling the lands within a period



of ten years and such alienation is contrary to the assignment granted in favour of the assignees. Further, mere sale between the persons of the same caste would not suffice to hold that the alienation by way of selling is proper as the lands have been sold within a period of ten years, which is in violation of the assignment.

6. In view of the above facts, it is evident that the order passed by the Original Authority as well as the Appellate Authority was due to the violation of the conditional assignment. Hence, the prayer sought for in these Writ Petitions cannot be granted. However, liberty is granted to the petitioners in both Writ Petitions to make fresh application for assignment of Patta before the appropriate authority and work out their remedies in accordance with law.

7. With the above said observations, these Writ Petitions are dismissed. No Costs.

Sd/-
Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Special Commissioner and Commissioner of
Land Administration,
Chepauk, Chennai-600005.

2.The District Revenue Officer,
Salem, Salem District.

3.The Tahsildar,
Yercaud Taluk,
Salem District.

+1 cc to M/s.C.S.Assocites sr.14833
+1 cc to Mr.J.Lakshmi Narayanan, Advocate sr15428
+1 cc to the Government Pleader sr15556

W.P.No.6037 of 2010 & W.P.No.1332 of 2004

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