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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.4199, 4200 and 4204 of 2022

R.Muthukumar ... Petitioner in W.P.No.4199/2022

1.Boopathy
2.Rajendran
3.Susila
4.Prema
5.Manimekalai
6.Rajeshwari
7.Murugan

...Petitioners in W.P.No.4200/2022

Murugan ...Petitioner in W.P.No.4204/2022

Vs.

1. The Additional Commissioner of
Land Administration,
Ezhilagam, II Floor,
Chepauk, Chennai 600 005.
2. The District Revenue Officer,
Sivaganga District, Sivaganga.
3. The Tahsildar,
Manamadurai Taluk,
Sivaganga District.

... Respondents in all petitions

COMMON PRAYER: These Writ Petitions filed under Section 226 of Constitution of India, pleaded to issue a Writ of Certiorari to call for the records of the 1st respondent in his proceedings in Proc.No.G2/214/2015, quash the common order dated 28.05.2021.

For Petitioners in all W.Ps. : Mr.R.Asokan

For Respondents in all W.Ps : Mr.G.Nanmaran
Special Government Pleader



Common Order

These Writ Petitions have been filed for issuance of writ of Certiorari to call for the records of the 1st respondent in his proceedings in Proc.No.G2/214/2015, quash the common order dated 28.05.2021.

2. The case of the petitioners is that the land measuring certain extent of hectare comprised in S.F.Nos.123/1, 128/7 and 128/8, in Arasanenthal Village in Manamadurai Taluk, Sivaganga District was assigned to the petitioners by the Tahsildar, Manamadurai Taluk, vide his proceedings dated 21.04.1999, on condition that they should bring the land for cultivation within 3 years from the date of assignment. It is alleged by the petitioners that even on the date of the assignment, the lands were unfit for cultivation and thereby, the petitioners applied to the District Collector, Sivaganga District for permission to remove the gravel from the said land to make it fit for cultivation. By proceedings, dated 02.08.1999, the District Collector granted permission to the petitioners to remove gravel for 3 years, for the period 17.08.1999 to 21.06.2002. Thereafter, since the lease period expired, the petitioners could not remove the entire gravel from these lands. Therefore, they planted neem trees as there was no source of irrigation and the petitioners even could not save the trees, due to lack of water source. While so, the 3rd respondent and the Revenue Divisional Officer, inspected the assigned lands and observed that the lands were not brought under cultivation and recommended to the District Revenue officer, Sivaganga / the 2nd respondent to cancel the assignment for the alleged violation of the conditions of assignment, who on the basis of the said reports, issued show cause notice dated 18.07.2005, calling the petitioners to submit their objections for the proposed cancellation of the assignment. Thereafter, the 2nd respondent passed an order dated 12.01.2006, cancelling the assignment holding that the land was not brought under cultivation and the petitioners had removed gravel from the land without permission from the Government, which amounts to violation of conditions of the assignment. Subsequently, the petitioners filed an appeal under the Revenue Standing Orders to the 1st respondent on 02.01.2015. After 5 years from the date of filing of the appeal, the 1st respondent issued a notice dated 19.03.2021 for personal hearing of the appeal on 25.03.2021, however the 1st respondent cancelled the enquiry and on the contrary, by order dated 28.05.2021, the 2nd respondent dismissed the appeal. Aggrieved by the same, the present petitions have been filed by the petitioners.

3. The learned counsel appearing for the petitioner



submitted that the 1st respondent has disposed of the appeal without affording an opportunity of personal hearing and since no opportunity of personal hearing was granted, the petitioner could not able to produce the documents and explain the case, which resulted in the passing of interim order. Further though notice was issued on 25.03.2021, on extraneous circumstances, the petitioners have not able to appear before the 1st respondent and therefore, without any evident and fixing the hearing date, the 1st respondent passed the exparte order against the petitioner and dismissed the appeal, which is not sustainable and hence prays for appropriate orders.

4. The learned Special Government Pleader appearing for the respondents submitted that though an opportunity was given to the petitioners, they have not availed the said opportunity and appear before the 1st respondent. Since the petitioners not interested to proceed the case, the 1st respondent passed the order, dismissing the appeal, and therefore, it is perfectly valid and cannot be found fault with.

5. This Court has carefully considered the rival submissions and also perused the materials available on record.

6. Admittedly, the petitioners were assigned with lands and subsequently it was cancelled by the 2nd respondent due to violation of condition of assignment and the same was challenged before the 1st respondent by way of appeal, however it is the case of the petitioners that the petitioners without affording opportunity of personal hearing, has disposed of the appeal. The issue involved in the present case is whether the common impugned order was passed after following the principles of natural justice. A perusal of the impugned order reveals that the show cause notices were issued on 19.03.2021 for personal hearing of the appeal on 25.03.2021 and the present impugned order was passed on 28.05.2021 and it appears that no fair opportunity was given to the petitioners. Hence it is clear violation of the principles of natural justice and therefore, the impugned order is liable to be set aside.

7. In view of the above, the impugned order of the 1st respondent in his proceedings in Proc.No.G2/214/2015, dated 28.05.2021, is set aside and the matter is remanded to the 1st respondent for fresh consideration and the 1st respondent may hear the petitioners on 04.04.2022 and pass orders within a period of four weeks thereafter. The petitioners are directed to appear before the 1st respondent on the particular date along with all necessary documents.

8. It is represented that the petitioner in W.P.No.4200 of 2022 was passed away. Hence, the legal heirs of the



petitioner in W.P.No.4200 of 2022 are permitted to substitute themselves while representing the case.

9. These Writ Petitions are disposed of with the above observations. No costs.

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Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional Commissioner of
Land Administration,
Ezhilagam, II Floor,
Chepauk, Chennai 600 005.
2. The District Revenue Officer,
Sivaganga District, Sivaganga.
3. The Tahsildar,
Manamadurai Taluk,
Sivaganga District.

+1cc to Mr.Asokan, Advocate, S.R.No.13677

+1cc to the Government Pleader, S.R.No.14610

W.P.Nos.4199, 4200 and 4204 of 2022

MG(CO)
SU(25/03/2022)