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WP.Nos.15622 & 17471 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

WP.Nos.15622 & 17471 of 2016

V.Selvi

.. Petitioner in W.P.No.15622 of 2016

1. A.S.Radhakrishnan

2. J.Rani

.. Petitioners in W.P.No.17471 of 2016

Versus

1.The Land Commissioner
Land Reforms, Chennai – 5

2.The District Revenue Officer
Tiruppur

3.The Revenue Divisional Officer
Udumalpet Division
Udumalpet

4.Rajkumar

5.P.Balamurugan

6.N.Rathinam

7.V.Indhra

.. Respondents in W.P.No.15622 of 2016

1.The Land Commissioner
Land Reforms, Chennai – 5

2.The District Revenue Officer
Tiruppur

3.The Assistant Commissioner
Land Reforms, Erode



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4.The Revenue Divisional Officer
Udumalpet

5.Rajkumar

6.A.Pannerselvam

7.S.Sudamani

.. Respondents in W.P.No.17471 of 2016

Prayer in W.P.No.15622 of 2016: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records in R.P.No.7/2015 dated 25.03.2016 on the file of the 1st respondent an quash the same as illegal, arbitrary and unenforceable.

Prayer in W.P.No.17471 of 2016: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records in R.P.No.8/2015 dated 25.03.2016 on the file of the 1st respondent an quash the same as illegal, arbitrary and unenforceable.

W.P.No.15622 of 2016

For Petitioners : Mr.V.Chandrasekaran

For Respondents : Mr.T.K.Saravanan for R1 to R3
Government Advocate

W.P.No.17471 of 2016

For Petitioners : Mr.V.Chandrasekaran

For Respondents : Mr.T.K.Saravanan for R1 to R4
Government Advocate

COMMON ORDER

These writ petitions have filed challenging the records in R.P.Nos.7 & 8/2015 dated 25.03.2016 on the file of the 1st respondent and consequently quash the same as illegal, arbitrary and unenforceable.

2. Since the issues involved in both the writ petitions are one and the same these writ petitions are heard together and decided by way of this



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common order.

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First let me deal with W.P.No. 15622 of 2016.

3. The case of the petitioner is that the State Government on 25.03.1988, issued notification under the Tamil Nadu Land Reforms (Fixation of Ceiling Land) declaring surplus land. Under the said notification, the petitioner's father namely Venkatesan was assigned with 1.65 acres of lands comprised in S.No.201/1A situated at Periyakottai Village of Udumalpet Taluk, Tiruppur District on 01.09.1995. While so, the petitioner's father passed away on 09.02.2000. In order to transfer the patta and change the revenue records, the third respondent issued notice of appearance on 09.04.2001 and the enquiry was conducted on 10.04.2001. The petitioner appeared before the assigning authority and after conducting the enquiry, the order of the assignment given in favour of the petitioner's father was cancelled by the third respondent on 27.08.2001 on the ground that the legal heirs of the deceased assignees are not eligible as per rule 8(6)(a) of the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965 and subsequently, new assignment was given to the sixth respondent on 24.01.2002.

4. Challenging the same, the petitioner preferred appeal before the



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second respondent in R.Dis.No.13058/2012/J2 and the second respondent dismissed the appeal on 20.10.2014 confirming the order of the third respondent. As against the dismissal order, the petitioner filed R.P.No.7/2015 on the file of the first respondent, which was also dismissed by the first respondent on 25.03.2016. Challenging the dismissal order passed by the first respondent, this writ petition has been filed.

5. The learned counsel for the petitioner would submit that admittedly, the assignment was granted in favour of the petitioner's father during the year 1995. Subsequently, cancelled the said assignment on the grounds that the assignees are not engaged in agricultural works and are economically sound in their status and they are not qualified for transfer of assignment as per Rule 8(6)(a) of the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965. However, he contended that the third respondent erroneously come to the conclusion without properly enquiring the assignees.

6. Buttressing the said statement, he submitted that the petitioner is not living with her husband at Bangalore as alleged by the third respondent, she is a permanent resident of the said village, cultivating Sappota and teak trees by engaging physical agricultural labourer and submitted without considering the



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above, the third respondent has cancelled the assignment issued in favour of her father, which is arbitrary and illegal. Hence, seeks for allowing this writ petition.

7. Heard both sides and perused the materials placed on record. The facts of the present case are not in dispute. Admittedly, the assignment was granted in favour of the petitioner's father during the year 1995 and the petitioner's father died during the year 2000. In order to change the revenue records, the legal heirs of the assignee moved application before the third respondent and the third respondent called the legal heirs for appearance on 09.04.2001 and conducted enquiry on 16.04.2001, upon which cancelled the assignment granted in favour of the petitioner's father on the following grounds that the petitioner's father namely M.Venkatesan, during his lifetime was working as Manager, GVG College and died on 09.02.2000, his wife Rathinam is working as Senior Teacher in Visalakshi Higher Secondary School, daughter Selvi, the petitioner herein is residing in Bengaluru along with her husband doing business and another daughter namely Indira is working as Assistant in LIC in Velagapatti village and the assignees are not engaged in agricultural works and all economically sound in their status and they are not qualified for transfer of assignment as per Rule 8(6)(a) of the



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Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965.

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8. Now, this Court has to consider whether the petitioner is eligible to get the assignment of the surplus land which was issued in favour of the petitioner's father and whether the petitioner is doing agricultural works as stipulated under the above said Rules. In the present case, the petitioner did not produce any credible records to show that she is doing agricultural works. Admittedly, she is residing in Bengaluru, the agricultural land is situated at Periyakottai Village, Udumalpet Taluk. However, the fact finding authorities have categorically made findings and have concluded that the petitioner is not eligible for the assignment and have not qualified for transfer of assignment as per Rule 8(6)(a) of the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965.

9. In view of the above, this Court finds that this writ petition stands devoid of merits. Hence, this writ petition is dismissed in limine. No costs.



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10. The case of the petitioner is that the State Government on 25.03.1988, issued notification under the Tamil Nadu Land Reforms (Fixation of Ceiling Land) declaring surplus lands. Under the said notification, the petitioner's father namely Subramaniam was assigned with 1.64 acres of lands comprised in S.No.201/1A situated at Periyakottai Village of Udumalpet Taluk, Tiruppur District on 01.09.1995. While so, the petitioners' father passed away on 06.12.2000. In order to transfer the patta and change the revenue records, the third respondent issued notice of appearance on 09.04.2001 and the enquiry was conducted on 10.04.2001. The petitioner appeared before the assigning authority and after conducting the enquiry, the order of the assignment given in favour of the petitioner's father was cancelled by the third respondent on 27.08.2001 on the ground that the legal heirs of the deceased assignees are not eligible as per rule 8(6)(a) of the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965 and subsequently, new assignment was given to the sixth respondent on 24.01.2002.

11. Challenging the same, the petitioner preferred appeal before the second respondent in R.Dis.No.13059/2012/J2 and the second respondent



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dismissed the appeal on 20.10.2014 confirming the order of the third respondent. As against the dismissal order, the petitioner filed R.P.No.8/2015 on the file of the first respondent, which was also dismissed by the first respondent on 25.03.2016. Challenging the dismissal order passed by the first respondent, this writ petition has been filed.

12. The learned counsel for the petitioners would submit that admittedly, the assignment was granted in favour of the petitioner's father during the year 1995. Subsequently, cancelled the said assignment on the grounds that the assignees are not engaged in agricultural works and are economically sound in their status and they are not qualified for transfer of assignment as per Rule 8(6)(a) of the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965. However, he contended that the third respondent erroneously come to the conclusion without properly enquiring the assignees.

13. Buttressing the said statement, he submitted that the petitioners are not doing textile business as alleged by the official respondents and further submitted that they were not provided with opportunity of hearing before passing the impugned cancellation of assignment in favour of the petitioners' father, which is arbitrary and illegal. Hence, seeks for allowing this writ



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14. Heard both sides and perused the materials placed on record. The facts of the present case are not in dispute. Admittedly, the assignment was granted in favour of the petitioner's father during the year 1995 and the petitioners' father died during the year 2000. In order to change the revenue records, the legal heirs of the assignee moved application before the third respondent and the third respondent called the legal heirs for appearance on 09.04.2001 and conducted enquiry on 10.04.2001, upon which cancelled the assignment granted in favour of the petitioners' father on the following grounds that the petitioners' father namely A.Subramanian, during his lifetime was working as Hostel Manager, GVG College and died on 06.12.2000, his wife Sudamani is not working, daughter Rani's husband is doing textile business, Son Radhakrishnan is also doing textile business in Udumalpet and the assignees are not engaged in agricultural works and all economically sound in their status and they are not qualified for transfer of assignment as per Rule 8(6)(a) of the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965. Though the official respondent had cancelled the assignment within a period of six years, which is mandatory period for cancellation, this Court is of the view that the fact finding authority in the impugned order as well as the



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cancellation order had decided on the eligibility of the assignment only on the petitioners, however, did not speak or touched upon the ineligibility of assignment of transfer on the petitioners' mother, who is not working anywhere.

15. Hence, In view of the above, this Court is of the considerate view that liberty be granted to the petitioner's mother namely Tmt.S.Sudamani to make fresh application for transfer of assignment as per Rule 8(6)(a) of the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965 before the official respondent within a period of four weeks from the date of receipt of a copy of this Order and the official respondent shall consider the application of the petitioner, if otherwise in order and pass appropriate orders on merits and in accordance with law after providing opportunity of hearing within a period of twelve weeks thereafter.

16. With the above directions, this writ petition stands disposed of. No costs.

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Index: Yes/No

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M.DHANDAPANI, J.

dhk

To

1.The Land Commissioner
Land Reforms, Chennai – 5

2.The District Revenue Officer
Tiruppur

3.The Revenue Divisional Officer
Udumalpet

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