



W.P.No.2155 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.2155 of 2015

and

M.P.Nos.2 & 3 of 2015

Abraham

..... Petitioner

Vs.

1. The Land Commissioner,
Chepauk, Chennai-5

2. The Assistant Commissioner,
Land Reforms, Thirunelveli.

3. R. Arjunan

.....Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari or any other appropriate writ or direction to call for the records on the file of the 1st respondent in proceedings R.P.1/2013 dated 05.05.2014 and quash the same as illegal, incompetent and without jurisdiction.

For Petitioner

: M/s.R. Poornima



W.P.No.2155 of 2015

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For Respondents

: Mr. Akila Rajendran,
Government Advocate for R1
: Mr. A.R. Balaji for R2.
: M/s. Anand kumar for R3

ORDER

The present petition has been seeking the relief of quashment of the impugned proceedings of the 1st Respondent herein, which came to be passed on 05.05.2014.

2. It is the case of the petitioner that the property in survey no.297/1, Vikaramsingapuram Village, Ambasundram taluk was acquired by the State, in the year 1973, by following all the due procedures under the Tamil Nadu Reforms (Fixation) on Ceiling Act, 1961 and the plots in the acquired property was assigned to the beneficiaries in the year 1993. The petitioner being one of the beneficiaries is in possession of the lands allotted to him from the date of assignment and has been carrying out cultivation in the said land. While being so, the 3rd Respondent herein, had filed the Writ Petition in W.P.No.3275 of 2005 before this Court claiming right over the aforesaid property on the ground that he was not aware of the Acquisition proceedings and the same was dismissed, against which, the 3rd Respondent



W.P.No.2155 of 2015

preferred Writ Appeal in W.A.210/2009 before the Madurai Bench, however, the appeal was dismissed granting liberty to the 3rd respondent/petitioner therein to challenge the earlier proceedings. Pursuant to the said order, the 3rd Respondent filed a revision petition before the 1st Respondent challenging the Acquisition proceedings. The revision petition was allowed by the 1st respondent which resulted in passing of the order impugned in this Writ Petition. Challenging the same, the petitioner has come before this Court.

3. Learned Counsel for the petitioner submits that the revision petition has been filed against the acquisition Proceedings, before the 1st respondent, after a lapse of 38 years, however, without considering the said delay and without even verifying the relevant documents in relation to the acquisition and assignment and the fact that the petitioner has been enjoying the land for the past 30 years, the 1st respondent has passed the impugned order, which is not sustainable. Hence, the order impugned in this Writ Petition is liable to be interfered with by this Court.



W.P.No.2155 of 2015

4. Learned Government Advocate appearing for the 1st respondent submits that though, in the year 1993, the assignment was granted in favour of the petitioner, however, the said assignment was made with the condition that the land has to be used for agricultural activities. It is evident from the order impugned in this Writ Petition that having found that the petitioner is not an agricultural labourer and no agricultural activities having been carried out in the lands assigned to him, the assignment granted in favour of the petitioner was cancelled vide the order impugned in this petition. Therefore, the order impugned in this Writ Petition cannot be found fault with and no interference is called for by this Court.

5. Heard the learned Counsel on the either side and perused the materials available on record.

6. A perusal of the impugned order reveals that though, initially the assignment was granted in favour of the petitioner after the acquisition, nevertheless, the said assignment has been canceled as the lands assigned to the petitioner for the purpose of carrying out agricultural activities has not



W.P.No.2155 of 2015

been utilised for the purpose for which it was assigned and that the fact that the petitioner was not an Agricultural labourer even at the time of granting assignment. Further, the assignment was granted in favour of the petitioner on resting of lands with the Government as it was lying surplus at the hands of some other persons. Now, the 3rd respondent claims that he had purchased the subject land in the year 1980 requires determination. Therefore, the petitioner, merely on the basis of his assignment cannot claim the right over the property when the conditions of assignment have not been fulfilled. Hence the prayer sought for in this Writ Petition cannot be acceded to.

7. For the reasons aforesaid, this Writ Petition is devoid on merits and the same is dismissed accordingly. No costs. Consequently, the connected Miscellaneous Petitions are closed.

08.06.2022

NHS

Index : Yes / No

Internet : Yes / No

5/6



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W.P.No.2155 of 2015

M.DHANDAPANI, J.

NHS

To

1. The Land Commissioner,
Chepauk, Chennai-5
2. The Assistant Commissioner,
Land Reforms, Thirunelveli.

W.P.No.2155 of 2015

08.06.2022

6/6