



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 09.03.2022
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.30845 of 2012

And

M.P.No.1 of 2012 and W.M.P.No.37069 of 2016

- 1.Virudhambal (deceased)
- 2.A.Durairaj
- 3.A.Ravichandran

(P2 and P3 substituted as LRs. of
deceased sole petitioner vide order
dated 23.02.2022 made in WMP.3126/
2022 in WP.30845/2012 by MDIJ)

... Petitioners

Vs.

- 1.The Principal Secretary and Commissioner
of Land Administration,
Chepauk,
Madras - 5.

- 2.The District Revenue Officer,
Thiruvannamalai.

- 3.The Revenue Divisional Officer,
Thiruvannamalai.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records on the file of the first respondent in proceedings D.Dis.No.G2/20533 of 2009 dated 22.08.2012 and to quash the same as illegal, incompetent and without jurisdiction.

For Petitioners : Mr.V.Raghavachari

For Respondents : Mr.G.Nanmaran

Special Government Pleader

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari to call for the records on the file of the first respondent in proceedings D.Dis.No.G2/20533 of 2009 dated 22.08.2012 and to quash the same as illegal, incompetent and without jurisdiction.



2.The case of the petitioner is that the State of Madras assigned land in favour of one Ellappan in DK No.63/62 dated 22.12.1956 and he is the petitioner's mother's sister's husband. He sold the said land in favour of one Kannammal in 1981 and the petitioner's husband purchased the same from the said Kannammal during 1984. Thereafter one Mani raised objection before the Revenue Divisional Officer and the Revenue Divisional Officer without holding proper enquiry cancelled the assignment on 15.07.2008. Thereafter, the said Mani obtained assignment in the name of his wife from the Tahsildar on 27.03.2009.

3.The further case of the petitioner is that challenging the order of the Revenue Divisional Officer dated 15.07.2008, the petitioner's husband preferred appeal before the District Revenue Officer. The District Revenue Officer vide order dated 30.07.2009 dismissed the said appeal. Challenging the said order, the petitioner preferred revision before the first respondent and the first respondent passed the impugned order on the ground that assignment was granted in favour of one Ellappan who belongs to Depressed Class. He alienated the property in favour of one Kannammal who does not belong to Depressed Class and thereafter it was alienated in favour of the petitioner's husband. As per Rule 15 of the Revenue Standing Order, the assigned land could be sold only after getting prior permission from the respondents and after specific period. Aggrieved by the same, the petitioner has filed this writ petition.

4.Since the sole petitioner who filed this writ petition has died during the pendency of this writ petition, her legal heirs are substituted as petitioners 2 and 3 in this writ petition.

5.The learned counsel appearing for the petitioners submitted that the land was assigned in favour of one Ellappan during the year 1956 and he alienated the land in favour of one Kannammal during the year 1981 after two decades. The petitioner's husband purchased the same from the said Kannammal during the year 1984. Thereafter, one Mani raised objection before the Revenue Divisional Officer and the Revenue Divisional Officer without holding proper enquiry cancelled the assignment on 15.07.2008. Thereafter, the said Mani obtained assignment in the name of his wife from the Tahsildar on 27.03.2009. Hence, the petitioner's husband preferred appeal before the District Revenue Officer challenging the order of the Revenue Divisional Officer dated 15.07.2008. The District Revenue Officer vide order dated 30.07.2009 dismissed the said appeal. Challenging the same, the petitioner preferred revision before the first respondent and the first respondent passed the impugned order, which is non est in law.

6.The learned Special Government Pleader appearing for the



respondents submitted that admittedly the land was assigned in favour of one Ellappan who belongs to Depressed Class during the year 1956. Subsequently, there was alienation by the original assignee in the name of person who does not belong to Depressed Class, which is clear violation of the conditions of assignment. Hence, the order passed by the Original Authority, Appellate Authority and Revisional Authority cannot be interfered with.

7. Heard the arguments advanced on either side and perused the materials available on record.

8. The facts in the present case is not in dispute. Originally, the land was assigned in favour of one Ellappan in DK No.63/62 dated 22.12.1956 and he is the petitioner's mother's sister's husband. He alienated the said land in favour of one Kannammal during the year 1981 and the petitioner's husband purchased the same from the said Kannammal during the year 1984. Thereafter, cancellation of assignment proceedings was initiated at the instigation of one Mani and the Revenue Divisional Officer cancelled the assignment on 15.07.2008. Thereafter, the said Mani obtained assignment in the name of his wife from the Tahsildar on 27.03.2009. Thereafter, appeal was preferred before the District Revenue Officer challenging the order of the Revenue Divisional Officer dated 15.07.2008 and the District Revenue Officer vide order dated 30.07.2009 dismissed the appeal. Challenging the same, the petitioner preferred revision before the first respondent and the first respondent passed the impugned order.

9. However, the fact remains that the first respondent has not disclosed the assignment conditions in his order. In the impugned order the first respondent has stated that the land was assigned in favour of person belonging to Depressed Class, however, nowhere in the order the first respondent has stated that the land has been reserved for Adi Dravidar people. There is no clarity in the order passed by the first respondent. Further, assignment was originally granted during the year 1956 and it was cancelled during the year 2008, after a lapse of five decades, which is not sustainable one. Hence, this Court is inclined to set aside the impugned order.

10. This writ petition is allowed. The impugned order dated 22.08.2012 passed by the first respondent is hereby set aside. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

pri



To

1.The Principal Secretary and Commissioner
of Land Administration,
Chepauk,
Madras - 5.

2.The District Revenue Officer,
Thiruvannamalai.

3.The Revenue Divisional Officer,
Thiruvannamalai.

+1 cc to Mr. V.Raghavachari, Advocate Sr.NO. 16013

+1 cc to Government Pleader Sr.NO. 16661

W.P.No.30845 of 2012

And

M.P.No.1 of 2012 and

W.M.P.No.37069 of 2016

JPL (CO)

A.SK (31/03/2022)