



W.P.(MD).Nos.9633 and 32684 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on 30.03.2021

Delivered on 05.07.2022

CORAM

THE HON'BLE MR. JUSTICE S.S.SUNDAR

W.P.Nos.9633 and 32684 of 2018
and
W.M.P.Nos.11584 and 37884 of 2018

W.P.No.9633 of 2018

1.Santhosh Kumar

2.Soundararajan

.. Petitioners

Vs.

1.The Land Commissioner,
Chepauk,
Chennai-600 005.

2.The Assistant Commissioner (Land Reforms)
Erode Jawan Bhavan Building,
Gandhiji Road,
Erode.

3.The Tahsildar,
Sulur Taluk,
Coimbatore District.

4.The Secretary to the Government,
Revenue and Disaster Management Department,
Land Reforms Wing,
L.R.2(2) Section,
St.George Fort,
Chennai-600 009

..Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings vide G.O.Ms.No.73 dated 20.02.2018 issued by the 4th respondent quash the same and direct respondent to reconsider the merits of the case independent of any influence extraneous reasons or interference.

W.P.No.32684 of 2018

1.Santhosh Kumar

2.Soundararajan

.. Petitioners

Vs.

1.The Director,
Director of Land Reforms,
Chepauk,
Chennai-6500 005.

2.The Revenue Divisional Officer,
Coimbatore South,
Coimbatore.

3.The Tahsildar,
Sulur Taluk,
Coimbatore District.

4.The Secretary to the Government,
Revenue and Disaster Management Department,
Land Reforms Wing,
L.R.2(2) Section,
St.George Fort,
Chennai-600 009

5.Mr.Rasiappan

6.Mr.Komaran

7.Mr.Pazhani

8.Mr.Kittan



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9.Tmt.Papaal

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings vide Na.Ka.No.4022/2018/A2, dated 12.10.2018 issued by the 3rd respondent quash the same and direct the respondents to restore the revenue records in the names of the petitioners.

For Petitioners

in both cases : Mr.V.Manohar

For R1 to R4

in both cases : Mr.T.M.Pappiah

For R5 to R8

in W.P.No.32684
of 2018 : Mr.G.Shankaran

COMMON ORDER

The petitioners, in both the writ petitions, are one and the same. Since the issues arise for consideration in both writ petitions are common, both the Writ Petitions are taken up together and disposed of by this common order.

2.The writ petition in W.P.No.9633 of 2018 is filed for issuance of a writ of Certiorarified Mandamus to quash the impugned proceedings of the fourth respondent vide G.O.Ms.No.73, dated 20.02.2018 and to direct the respondents to reconsider the merits of the case independent of any influence.

By order impugned, dated 20.02.2018, an appeal filed by the writ petitioners as



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against the proceedings of the Land Commissioner cancelling the re-assignment order issued by the Assistant Commissioner was confirmed. It is to be noted that the Land Commissioner further directed to initiate fresh assignment proceedings in respect of the lands re-assigned in favour of the petitioners.

3.The writ petition in W.P.No.32684 of 2018, the petitioners challenged the proceedings of the Tahsildar, dated 12.10.2018, by which, the revenue records were directed to be changed, pursuant to the proceedings of the Land Commissioner that was challenged in the appeal filed by the petitioners before the State. The consequential prayer in the writ petition is to restore the records in the name of the petitioners.

4.Heard Mr.V.Manohar, learned counsel appearing for the petitioner, Mr.T.M.Pappiah, learned counsel appearing for the respondents 1 to 4 and Mr.G.Shankaran, learned counsel appearing for the respondents 5 to 8.

5.The brief facts of the case that are necessary for disposal of these Writ Petitions are as follows:

An extent of 18.16 acres in respect of lands in several survey numbers in Appanaickenpatti Village, Palladam Taluk, Tirupur District, was



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declared as surplus in holding of one A.G.Varadharajulu Naidu, as per the notification under Section 18(1) of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act 1961, dated 12.02.1986. Thereafter, proceedings were initiated under the Tamil Nadu Land Reforms (Disposal of Surplus land) Rules 1965 and the lands were assigned to 13 persons, including the respondents 5 to 9 in W.P.No.32684 of 2018. However, the assignments in favour of the respondents 5 to 9 in W.P.No.32684 of 2018 were cancelled by an order dated 27.02.2013 on the ground that the lands assigned were not brought under cultivation within one year, and that therefore, there was violation of condition of the assignment. Subsequently, the lands were re-assigned in favour of the writ petitioners and one V.Jayapathi, by proceedings dated 14.08.2002.

6. Thereafter, on a representation made by an individual viz., Selvaraj that the lands have been assigned to rich persons, the first respondent/Land Commissioner by invoking his powers vested under Rule 11(3)(b) of the Rules, initiated *suo motu* proceedings. Thereafter, the first respondent in W.P.No.9633 of 2018 cancelled the assignment made in favour of the petitioners after holding due enquiry and getting records from the revenue authorities. It was found that the assignment in favour of the petitioners was due to misrepresentation and fraud as the petitioners have suppressed their caste and



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economic status, while applying for assignment. After the cancellation of assignment in favour of the writ petitioners by order dated 31.10.2012, the respondents 5 to 9 in W.P.No.32684 of 2018, made a representation to the authorities for restoration of assignment in their favour and they have filed a writ petition in W.P.No.8264 of 2013 for restoration of the assignment of the lands.

7.This Court directed the official respondents to consider the representation of the respondents 5 to 9 in W.P.No.32684 of 2018. In the mean while, the writ petitioners filed a writ petition in W.P.No.30793 of 2013 challenging the order of the first respondent to restore the revenue records in their favour, as the revenue records were changed subsequent to the order of the Land Commissioner cancelling the assignment in favour of the petitioners. The said writ petition was dismissed by this Court by order dated 12.01.2016. Pursuant to the direction passed in W.P.No.8264 of 2013 dated 12.01.2016, the Land Commissioner passed an order on 11.08.2016 by setting aside the order of cancellation of assignment made in favour of the original assignees viz., respondents 5 to 9 in W.P.No.32684 of 2018. Therefore, the assignments in favour of the respondents 5 to 9 in W.P.No.32684 of 2018 were restored. Subsequently, the petitioners challenged the order in W.P.No.30793 of 2013 in



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the appeal in W.A.No.1265 of 2016. The said appeal was disposed of by order dated 30.11.2017 with the directions of the Government to dispose of the appeal filed by the petitioners under Rule 11(4) of the Tamil Nadu land Reforms (Disposal of Surplus Land) Rules 1965.

8. Thereafter, the Government passed an order rejecting the appeal filed by the petitioners by G.O.Ms.No.73 Revenue and Disaster Management Department, Land Reforms Wing LR.2(2) Section, dated 20.02.2018, on the ground that the petitioners are not eligible for assignment and the order of Land Commissioner holding that the assignment in favour of the petitioners by misrepresentation and fraud was confirmed. The order of Government confirming the order of the Land Commissioner cancelling the assignment in favour of the petitioners, is challenged by the petitioners in W.P.No.9633 of 2018. Pursuant to the order of the Land Commissioner, the third respondent initiated proceedings and passed an order on 12.10.2018 directing the revenue records to be changed in favour of the respondents 5 to 9 in W.P.No.32684 of 2018. Consequent to the order of assignment made in favour of the respondents 5 to 9 in W.P.No.32684 of 2018, the revenue records were changed in favour of the respondents 5 to 9 in W.P.No.32684 of 2018. The order of the third respondent dated 12.10.2018 changing the revenue records was in-compliance



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with the order of the Land Commissioner dated 11.08.2016 and the order of RDO Coimbatore (South), dated 12.09.2018. The petitioners filed the writ petition in W.P.No.32684 of 2018 to quash the order of the third respondent and for a direction to the Revenue Tahsildar for restoration of the petitioners' names in the revenue records. In both the writ petitions, the petitioners have not challenged the order of the Land Commissioner setting aside the order, cancelling the assignment in favour of the respondents 5 to 9 in W.P.No.32684 of 2018. One of the main issues in both the writ petitions is whether the cancellation of the assignment in favour of the petitioners by the land Commissioner(land reforms) is proper.

9.From the records, it is revealed that the petitioners belong to a wealthy family, who have several immovable properties and the the same are mentioned in the order of Land Commissioner. In the first writ petition, the order of the Land Commissioner with regard to the assets belonging to the family of the petitioners is not challenged. It is to be seen that the Land Commissioner has *suo motu* power under Rule 11(3)(b) of the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules 1965, if he is satisfied that there is a material irregularity in the procedure or that the order of assignment was passed under a mistake of fact or owing to fraud or misrepresentation. Thus, the first



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respondent in W.P.No.9633 of 2018 has exercised his power and conducted an enquiry. During the enquiry, it was found that the petitioners have not only suppressed their Community Status, but also suppressed their economic background and the immovable properties owned by the petitioners and by the members of their family. As rightly pointed out by the first respondent, the object behind the allotment of surplus lands was to benefit the landless poor, who will put the land to use by their physical exertion.

10.Before the Land Commissioner, several documents were filed, it is seen that the first petitioner's father viz., Perumalsamy is said to hold an vast extent of lands and his family members are doing Poultry business. From the assets, the properties acquired by the father of the petitioners and the family members of the petitioners, the petitioners are not eligible to get assignment of surplus land from big landlords, who were holding in excess of the ceiling limit. The very purpose and object behind the Land Reforms Act, will be defeated, if the petitioners are allowed to enjoy its assignment. The father of the first petitioner is running an industry viz., M/s.Balaji Cotton Mills and the second petitioner is running an industry for the manufacture of cotton, as per the information furnished by the Deputy Director (Textiles). Few documents were produced to show that one of the petitioner is running big poultry farm



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and a natural beauty salon.

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11. Above all, the petitioners belong to Hindu Kammavar Naidu, which is a forward community. The petitioners have given deposition before the Special Tahsildar, Erode, as if the petitioners belong to Hindu Vadugan Community, which is a backward Community. The petitioners have made an attempt to get assignment of surplus lands acquired from big landlords by a false representation as to their economic and Community status. When the petitioners' parents and the members of their family are industrialists owning substantial properties, this Court is unable to find fault with the order of the Land Commissioner which was confirmed by the Government, after following the procedures prescribed in law. Since the assignment in favour of the petitioners is cancelled in the year 2012 and the order of cancellation was also confirmed by the Government by the impugned order challenged in W.P.No.9623 of 2018, this Court is unable to find any error. Since the order of the third respondent impugned in W.P.No.32684 of 2018 is consequential, this Court has no reason to interfere with the same. As a matter of fact the order of Land Commissioner directing re-assignment of lands in favour of contesting respondents is not challenged.



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12. In the result, for want of merits these two writ petitioners are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

05.07.2022

Index: Yes/No

Internet: Yes

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