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W.P.Nos.21866 of 2016 etc batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 22.09.2022

Pronounced on : 30.09.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.Nos.21866, 22051 & 22334 of 2016
and 16464 of 2017

and

W.M.P.Nos.18716, 18844, 19043 & 27742 of 2016
and 17817 & 17818 of 2017

Muppidthi .. Petitioner in W.P.No.21866 of 2016

K.Subramanian .. Petitioner in W.P.No.22051 of 2016

1.E.Krishnan

2.E.Arumugam

3.E.Thabasu

4.E.Veilukandammal .. Petitioners in W.P.No.22334 of 2016

K.Ramakrishnan .. Petitioner in W.P.No.16464 of 2017

Versus

1.The Additional Chief Secretary &
Commissioner of Land Administration
Chepauk
Chennai – 600 005

2.The District Collector
Tirunelveli District
Tirunelveli



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3.The Revenue Divisional Officer
Tirunelveli District
Tirunelveli

4.The Tahsildar
Tirunelveli District
Tirunelveli

... Respondents in all cases

Prayer in W.P.No.21866 of 2016: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records of the 1st respondent made Rc. No.F3/31982/ 2007 Dated 15.04.2016 confirming the order of the 2nd and 3rd respondent dated 13.06.2003 Na.Ka. G1/55020/ 2002 quash the same and forbear the respondents from disturbing the possession of the assigned land comprised in S. No. 768/5 - 0.50.5 Hec. in Suthamalli Village Tirunelveli.

Prayer in W.P.No.22051 of 2016: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records of the 1st respondent made Rc. No.F3/31982/ 2007 Dated 15.04.2016 confirming the order passed by the 2nd respondent made in Na.Ka. G1/55020/ 2002 dated 13.06.2003 quash the same and forbearing the respondents from disturbing the possession of the assigned land comprised in S.No.768/6-0.13.0 Hec. in Suthamalli Village Tirunelveli.

Prayer in W.P.No.22334 of 2016: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records of the 1st respondent made Rc. No.F3/31982/ 2007 Dated 15.04.2016 confirming the order passed by the 2nd respondent made in Na.Ka. G1/55020/ 2002 dated 13.06.2003 quash the same and forbearing the respondents from disturbing the possession of the assigned land comprised in S.No.768/7-0.05.5 Hec. in Suthamalli Village Tirunelveli.

Prayer in W.P.No.16464 of 2017: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records of the 1st respondent made Rc. No.F3/31982/ 2007 Dated 15.04.2016 confirming the order passed by the 2nd respondent made in Na.Ka. G1/55020/2002 dated 13.06.2003 quash the same and forbearing the



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respondents from disturbing the possession of the assigned land comprised in S.No.768/4 in Suthamalli Village Tirunelveli.

For Petitioners : Mr.P.Gunaraj (in all cases)
For Respondents : Mr.U.Bharanidharan (in all cases)
Additional Government Pleader

COMMON ORDER

Prelude

Assailing the order of confirmation passed by the 1st respondent in the revision filed against the order of cancellation of assignment passed by the second respondent, the present petitions have been preferred.

2. Since, the subject matter of dispute arises out of the same impugned order, these matters are heard together and disposed by way of this common order.

The facts, in brief, are as under:-

3. According to the petitioners, they made application on 24.08.1994 before the second respondent seeking for assignment of lands. On scrutiny of their applications and conducting enquiries, the petitioners were assigned with free pattas in S.Nos.768/4,5,6 and 7 situated at Suthamalli Village, Tirunelveli Town and District by the fourth respondent vide proceedings in A8.T.A.3/955-96 dated 19.05.1995, as per the provision of R.S.O.15(18). However, while



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assigning the said lands, conditions were imposed in 'D' Schedule stating that the assignees have to utilise the lands for cultivation within a period of three years from the assignment date and if, the same is not complied with, the said assignment order will be cancelled and the lands will be resumed back to the Government. It is the further case of the petitioner that in compliance with the imposed conditions, they were cultivating Avuri in the said lands during 01.07.1995 to 30.06.1996 and 01.07.1999 to 30.06.2000.

4. While so, the fourth respondent had conducted inspection on 24.11.1999 and on the basis of the inspection, issued a show-cause notice to the petitioners on 26.11.1999 citing that the petitioners are not complying with the conditions as stipulated under RSO 15(18) and sought as to why the assignment granted to them should not be cancelled, to which, the petitioners sent their reply dated 01.01.2002 stating that they are complying with the conditions. However, no enquiry was conducted and to their shock, they received an order of cancellation of assignment of lands passed by the second respondent in his proceedings in G1/55020/2002 dated 13.06.2003 and the same was served on the petitioner after a period of 14 months.

5. Aggrieved, the petitioners filed writ petitions in W.P.Nos.2164 to 2166



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and 2322 of 2004 before this Court and the same was disposed of on 23.07.2007

directing the petitioners to file appeal before the first respondent herein. Hence, revision petitions were filed before the first respondent. The first respondent took up the petitions and decided the cases on two issues, i.e., (i) Whether any documentary evidence has been produced to prove cultivation within the stipulated period and (ii) Whether any other condition of the assignment has been violated by the assignee and after hearing the petitioners and their counsel, confirmed the order of the second respondent and dismissed the revision petitions. Challenging the order of the first respondent, the petitioners have filed these writ petitions before this Court.

6. The foremost contention of the learned counsel for the petitioner is that primarily, there was no charge by the revenue officials against the petitioner that they are not eligible to get assignment free of cost as landless poor under Clause 15(2)(iii) of RSO and further iterated that the fourth respondents report against that petitioners was that they are not cultivating the assigned lands as per the stipulated conditions. It is further submitted that the first respondent has erroneously come to the conclusion that the petitioners are related to the Village Assistant, Suthamalli Village namely Arumugam and the adangal entry could



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have been fabricated by influence. Such findings are erroneous and non-est in law. It is his further contention that the petitioners were not afforded with reasonable opportunities and the second respondent has passed the order of cancellation of assignment on 13.06.2003 without hearing the petitioners and the same was served on 23.08.2022, after a period of 14 months which is illegal and against the principles of natural justice. Hence, seeks this Court to allow this writ petition.

7. The learned Additional Government Pleader submitted that the assignment patta was cancelled solely on three grounds. The first ground of cancellation of the assignment is pursuant to the fourth respondent's inspection report dated 24.11.1999, wherein, it was *inter alia* stated that during the field inspection in Fasli 1409, the assigned lands had not been brought into cultivation within a period of three years from the date of assignment. However, the petitioners claim that they are cultivating Avuri during the Fasli 1405(01.07.1995 to 30.06.1996) and 1409 (01.07.1999 to 30.06.2000) and had produced the Adangal entries. It is submitted that obtaining Adangal Entry alone is not sufficient to establish that the lands were cultivated within such period. Moreover, the fact finding authority had established that the entire case rests on



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the fact that the petitioners have got the assignment fraudulently as they were close relatives of the Village Assistant and held that the adangal entry were also made fraudulently by using the influence of the same village assistant. It is further submitted that as against the said village assistant namely Thiru. Arumugam, the fourth respondent had initiated disciplinary proceedings vide A8/7760/1999 dated 20.08.2002 under Section 17(e) of Tamil Nadu Government Servants' Conduct Rules, 1973 and suspended the said village assistant from 20.08.2022 and fourth respondent, on charges being proved, on 31.03.2003, ordered stoppage of increment for three months without cumulative effect. However, the said village assistant was permitted for superannuation on 31.01.2012 and the said punishment has attained finality.

8. The second ground for cancellation of assignment patta is that the petitioners are rich persons, they are not eligible for free assignment of government lands as stipulated in RSO 15(2)(iii) and had violated the same by suppressing the same in their application for assignment of patta. He would further submit that the assignment can be granted only to the landless poor people, since, the petitioners are related to the said village assistant, they had obtained the free assignment lands. Upon such findings, the proceedings have



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been initiated by the fourth respondent and the second respondent on the basis of the report of the District Inspection Cell Officer dated 25.06.2002 and the assigned lands were cancelled on the ground of violation of conditions stipulated under RSO 15(18).

9. Further, the third ground of cancellation is that the village assistant namely Arumugam, who is a close relative to the petitioners had colluded with the petitioners and had helped in obtaining free assignment pattas in favour of the petitioners by fabricating documents. The above grounds paved way for cancellation of the assignment patta with regard to the subject lands and the first respondent upon hearing all concerned parties, on revision, confirmed the order of the second respondent and dismissed the revision petitions filed by the revision petitioners.

10. Hence, by advancing the above arguments, he re-iterated that it is writ large on the record that the petitioners, with the influence of the said village assistant, had fabricated documents and obtained assignment patta, which fact is supported by the charges proved against the said village assistant on 31.03.2003 vide proceedings of the fourth respondent in A8/7760/1999 and the punishment



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imposed has attained finality. Hence, he seeks for dismissal of these petitions.

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11. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record and the particulars of dates, which are relevant for deciding the present petitions.

12. Admittedly, the petitioners were assigned with free pattas in S.Nos.768/4,5,6 and 7 situated at Suthamalli Village, Tirunelveli Town and District by the fourth respondent vide proceedings in A8.T.A.3/955-96 dated 19.05.1995, as per the provision of R.S.O.15(18). The details of the assignment are extracted below for ready reference:

<i>S.No.</i>	<i>Name of the Assignee</i>	<i>Survey No.</i>	<i>Classification</i>	<i>Extent</i>
1.	Thiru.K.Ramakrishnan	768/4	Punjai	0.16.0
2.	Tmt.Muppidathi	768/5	Punjai	0.16.0
3.	Thiru.Subramanian	768/6	Punjai	0.130
4.	Thiru.KombaAmmal	768/7	Punjai	0.05.5
Total				0.50.5

13. Though, the free assignment patta was granted in favour of the petitioners during the year 1995 as per the provisions of RSO 15(18) with



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certain conditions. On the Inspection by the fourth respondent resulted in a show cause notice being issued on 26.11.1999 after a lapse of four years on the ground that no agricultural activities being carried on by the petitioners in the said assigned lands and thereby the petitioners had violated the provisions of RSO 15(18). The petitioners have made a reply stating that during the Fasli 1405 (01.07.1995 to 30.06.1996) and 1409 (01.07.1999 to 30.06.2000), they were cultivating Avuri and for substantating their statements, they produced the Adangal entries. On perusal of the adangal entries, it would reveal that the petitioners are cultivating Avuri, except the said crop, no other crops are being cultivated in the assigned lands by the petitioners.

14. Further proceedings were initiated based on similar complaint from a person in the locality on 27.12.1999 and on 27.05.2022 and on recommendation of fourth respondent and third respondent, the District Inspection Cell Officer enquired and submitted a report dated 25.06.2002 stating that the land was not utilised/cultivated by the assignees within a period of 3 years and the village assistant is close relative to the petitioners and further, they were economically sound and therefore, ineligible for free assignment. In view of the aforesaid report and adangal receipts, the second respondent cancelled the assignment



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lands in proceedings No.G1/55020/2002 dated 13.06.2003 on the ground of violation of conditions stipulated under RSO 15(18). Challenging the cancellation of assignment lands, the petitioners filed writ petitions in W.P.Nos.2164 to 2166 and 2322 of 2004 before this Court and the same was disposed of on 23.07.2007 directing the petitioners to file appeal before the first respondent herein which resulte in revision petitions being filed before the first respondent. The first respondent confirmed the order of the second respondent and the dismissed the revision petitions.

15. The first ground on which the assignment has been cancelled is violation of RSO 15(18), in that, it is the case of the respondents that upon inspection, it was found that the assigned lands have not been put to cultivation within the period of three years. Though the petitioners claimed that they have been cultivating the said lands, however, except for Avuri, no other crops have been cultivated in the said lands. No other material evidencing cultivation has been placed before the respondents to show that RSO 15(18) has not been violated. Even before this Court, there is no material placed to substantiate cultivation. In such circumstances, the 2nd respondent has rightly held that there is no violation of assignment condition, which has been affirmed by the 1st



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respondent.

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16. Insofar as the finding relating to the petitioners being affluent persons and that they are earning more than Rs.15,000/-, however, to substantiate the same, no material has been placed before the 2nd respondent. In the absence of any material, the finding recorded that the petitioners are earning more than Rs.15,000- annually is not substantiated through proper documentary evidence and, therefore, the said finding deserves to be negative.

17. The last of the contention pertains to the help of the Village Assistant, who is related to the petitioners, which enabled the petitioners to get the lands assigned in their favour. It is not disputed by the petitioners that the Village Assistant is not related to them. Except for the adangal receipts to prove cultivation, no other document is filed to support cultivation. It is the case of the respondents that the said adangal receipts are fabricated documents, which were fabricated with the help of the Village Assistant.

18. It is also not in dispute that the said village assistant was subjected to disciplinary proceedings initiated by the Government. Further, in order to



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ascertain the proceedings initiated against the said village assistant, this Court on 14.09.2022 directed the fourth respondent to file status report which has accordingly been filed. On perusal of the report filed by the fourth respondent in Na.Ka.No.A4/3645/2022 dated 17.09.2022, it would indicate that as against the said village assistant, the fourth respondent had initiated disciplinary proceedings vide A8/7760/1999 dated 20.08.2002 under Section 17(e) of Tamil Nadu Government Servants' Conduct Rules, 1973 and suspension was inflicted on the said village assistant from 20.08.2022 and the fourth respondent on the charges being proved, on 31.03.2003, ordered stoppage of increment for three months without cumulative effect. The said village assistant was permitted for superannuation on 31.01.2012. It is to be pointed out that the punishment has been accepted by the Village Assistant and it has since attained finality. When the Village Assistant himself has accepted the punishment it only proves that the guilt has been proved beyond doubt, which would necessarily have a cascading effect on the case of the petitioners. The above clearly shows that the document relating to cultivation was fabricated which cannot be relied upon.

19. The above disciplinary proceedings would manifestly establishes that there is a nexus between the petitioners and the village assistant and the same is



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elaborately discussed in the foregoing report filed by the fourth and second respondents. Further, this Court is of the considerate view that the fact finding authority has rightly conducted detailed enquiry, appreciated the evidences and had come to the conclusion that the subject land was not brought into cultivation within the mandatory period, viz., three years which cannot be found fault with.

20. In view of the above discussion, this Court holds that these writ petitions are liable to be dismissed and accordingly the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

30.09.2022

Index: Yes/No
dhk/GLN

To
1.The Additional Chief Secretary &
Commissioner of Land Administration
Chepauk
Chennai – 600 005



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M.DHANDAPANI, J.

dhk/GLN

2.The District Collector
Tirunelveli District
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3.The Revenue Divisional Officer
Tirunelveli District
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4.The Tahsildar
Tirunelveli District
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Pre-Delivery Order in
W.P.No.21866 of 2016 etc batch

30.09.2022