



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 29.04.2022
CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WEB COPY

W.P(MD)No.3415 of 2009 and
MP(MD) No.2 of 2009

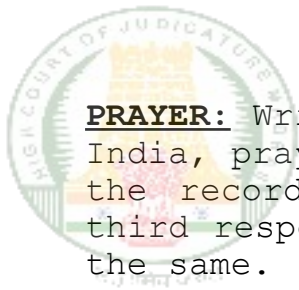
- 1.Rajendran
- 2.S.Gandhimathi
- 3.Selvi
- 4.Thendral
- 5.Chelladurai
- 6.Baby Saroja
- 7.Rengasamy
- 8.Amutha
- 9.R.Chinnammal
- 10.Indrani
- 11.Palaniappan

...Petitioners

Vs.

- 1.The Tahsildar,
Orathanadu Taluk,
Orathanadu,
Thanjavur District.
- 2.The Revenue Divisional Officer,
Thanjavur.
- 3.The Special Commissioner,
Land Acquisition,
Government of Tamil Nadu,
Chepauk,
Chennai.
- 4.M.Rasammal
- 5.Shanthi
- 6.Valliammai
- 7.Pushpam
- 8.Palaniyayi
- 9.Deivanai
- 10.Govindan
- 11.Kaliammal
- 12.Chinnaponnu
- 13.Valarmathi
- 14.Mangalam
- 15.The District Revenue Officer,
Thanjavur District,
Thanjavur.

...Respondents



PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records in connection with the impugned order passed by the third respondent vide RC No.G2/32097/07, dated 16.03.2009 and quash the same.

For Petitioner : Mr.N.Dilip Kumar
For R1 to R3 & R15 : Mr.N.Ramesh Arumugam
Government Advocate
For R4 to R14 : Mr.D.Srinivasa Ragavan

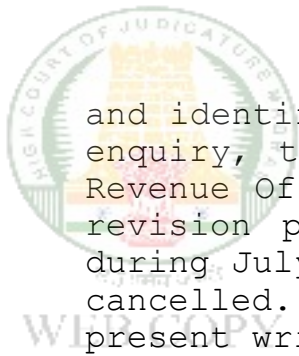
O R D E R

This Writ Petition is filed as against the order of the third respondent, dated 16.03.2009.

2. The Special Commissioner, Land Acquisition, Chennai, by the order impugned in this writ petition allowed the revision petition filed by the respondents 4 to 14, as against the order of the District Revenue Officer in RC No.H1/74693/2001, dated 27.07.2007

3.The brief facts of the case:-

The Special Tahsildar (Assignment), Orathanadu in his proceedings in Rc.311/92-B2, dated 21.01.1992 assigned the lands to an extent of 1.29.5 hectares in S.No.15/2, Kaduvettividuthi Village, Orathanadu Taluk, Thanjavur District to the respondents 4 to 14, on certain conditions that the assignees should bring the land under cultivation within a period of three years from the date of assignment and if any violation would result in resumption of land. One Govindaraju, the then President of Sivaviduthi Panchayat filed an objection petition before the District Revenue Officer, Thanjavur alleging that the lands assigned to the respondents 4 to 14 was not under their enjoyment and they have not complied the condition of assignment. Based on the objection, the Tahsildar, Orathanadu sent a report to the Revenue Divisional Officer to cancel the assignment on the ground that the assignees kept the land without any agricultural operation. Based on his report, the Revenue Divisional officer issued a show cause notice to the respondents 4 to 14, calling upon their explanation. The Revenue Divisional Officer cancelled the assignment by his proceedings, dated 17.12.1998. As against the order of the Revenue Divisional Officer, the respondents 4 to 14 have preferred an appeal before the District Revenue Officer, Thanjavur. Pending the appeal, the District Revenue Officer, Thanjavur made an assignment in R.C.B2/7543/2001 dated 17.07.2001 in favour of the petitioners. But the order of assignment was stayed by the District Revenue officer, Thanjavur. On 27.07.2007, the order of the Revenue Divisional Officer, Thanjavur was confirmed by the District Revenue Officer, Thanjavur, vide its proceedings in RC.No.H1/74693/2001. Aggrieved over the same, the respondents 4 to 14/assignees have preferred a revision petition before the third respondent, on the ground that the land assigned was not sub-divided

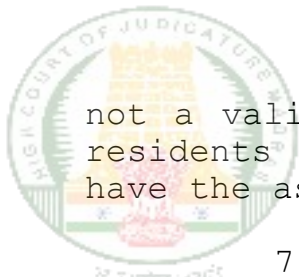


and identified to them immediately after assignment. After elaborate enquiry, the third respondent cancelled the orders of the District Revenue Officer, Thanjavur and confirmed the assignment made to the revision petitioners that the lands were identified to them only during July 1999. The re-assignment made to the petitioners was also cancelled. Challenging the same the petitioners have filed the present writ petition.

4.Mr.N.Dilip Kumar, learned counsel appearing for the petitioners submits that the lands were assigned to the respondents 4 to 14 with a condition that they must brought these lands for cultivation within a period of three years from the date of order of the assignment. But, they have failed to comply with the order of the assignment and therefore a report was sent to the Revenue Divisional Officer and the Revenue Divisional Officer had cancelled the assignment by his proceedings, dated 17.12.1998, against which, the respondents preferred revision petition before the Commissioner of Land Administration/the third respondent, wherein, the orders of the lower authorities in cancelling the assignment of land to the revision petitioners/the respondents 4 to 14 are set aside. The learned counsel further submits that the third respondent failed to consider the fact that the suit in O.S.No.39 of 2002 filed by one Rasammal, before the District Munisif Court, Orathanadu, the commissioner, who inspected the disputed land on 27.03.2002 proved the existence of Eucalyptus saplings in the land. The learned counsel also raised another contention that some of the assignees are not the residents of Kaduvettividhuthi Village. Hence, he prays that the order of the third respondent has to be quashed.

5.The learned counsel appearing for the respondents 4 to 14 submits that the lands were assigned to the respondents 4 to 14, as per the order dated 21.01.1992, by the Tahsildar Orathanadu and sub division fees also paid by them on 22.01.1992 itself. However, the lands were sub divided and identified to the respondents 4 to 14 only during July 1999, as per the report of the Tahsildar in T.K.8A 71/1406, dated 08.10.1999. He further submits that the order of cancellation was made on 17.12.1999, within a period of five months from the identification of boundaries of assigned land. After conducting the elaborate enquiry, the third respondent had set aside the orders of the lower authorities. Hence, there is no need to interfere with the order of the third respondent.

6.The Tahsildar, Orathanadu filed a counter affidavit stating that though the lands were assigned to the respondents 4 to 14 on 21.01.1992, the sub division and physical identification of assigned areas were made available to the assignees only during July 1999. Hence, the physical enjoyment of the land and also the condition that the assignees must brought the land in cultivation within a period of three years are to be calculated from the date of identification of the land to the respondents 4 to 14 and hence the cancellation of the assignment made to the respondents 4 to 14 is

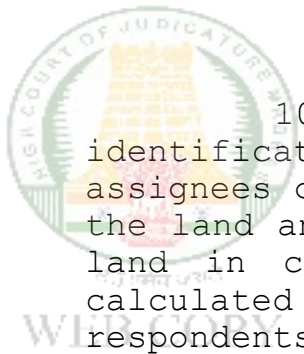


not a valid one. It is also observed that eight persons being the residents of Kulandiranpattu Village, is not a disqualification to have the assignment of the land in their favour.

7.The learned Government Advocate submits that though the assignment of lands has been made in the year 1992, lands were sub-divided and identified to the assignees only in the month of July 1999. He further submits that pending the revision petition filed by the respondents 4 to 14, the lands were assigned to the petitioners. Subsequently, after conducting elaborate enquiry, the third respondent set aside the orders of the lower authorities and cancelled the re-assignment made to the petitioners herein.

8.This Court paid its anxious consideration to the rival submissions made by the respective counsel and also perused the materials placed on record.

9.Admittedly, the lands S.No.15/2, Kaduvettividuthi Village, Orathanadu Taluk, Thanjavur District, to an extent of 1.29.5 hectares has been assigned to the respondents 4 to 14, by the Special Tahsildar (Assignment), Orathanadu, as per his proceedings in Rc.311/92-B2, dated 21.01.1992 on certain conditions. The main condition is that the assignees must brought the lands in cultivation within a period of three years. At the instance of the objection raised by the then President of Sivaviduthi Panchayat, the Tahsildar, Orathanadu sent a report to the Revenue Divisional Officer to cancel the assignment made in favour of the respondents 4 to 14, on the ground that they have not complied the condition of assignment. The Revenue Divisional Officer cancelled the assignment by his proceedings, dated 17.12.1998. The Appeal preferred by the respondents 4 to 14, before the District Revenue Officer, Thanjavur was dismissed on 27.07.2007 as per the proceedings in RC.No.H1/74693/2001. Pending the appeal, re-assignment was made in favour of the petitioners in R.C.B2/7543/2001 dated 17.07.2001 and the same was stayed by the District Revenue officer, Thanjavur. On 27.07.2007, the order of the Revenue Divisional Officer, Thanjavur was confirmed by the District Revenue Officer, Thanjavur, vide his proceedings in RC.No.H1/74693/2001. Aggrieved over the same, the respondents 4 to 14/assignees have preferred a revision petition before the third respondent, on the ground that the land assigned was not sub-divided and identified to them immediately after assignment and the same was done only during July 1999. After elaborate enquiry, the third respondent has held that though the assignment of lands has been made on 21.01.1992 and sub division fees also remitted by the assignees on 22.01.1992, sub division and identification of lands were made only during July 1999; the assignment was cancelled on 17.12.1999 within a period of five months from the identification of boundaries of the assigned land. It was further observed that the assignees were not given reasonable opportunity of three years for bringing the land into cultivation.



10.It is an admitted fact that sub division and physical identification of assigned areas were made available to the assignees only during July 1999 and hence, the physical enjoyment of the land and also the condition that the assignees must brought the land in cultivation within a period of three years are to be calculated from the date of identification of the land to the respondents 4 to 14. It was also clarified that some of the assignees are not the residents of Kaduvettividhuthi village is not a disqualification to have the assignment of the land in their favour. Hence, this Court finds no error in the order passed by the third respondent in setting aside the orders of the lower authorities and cancelling the re-assignment made to the petitioners herein.

11.In view of the above, this writ petition is dismissed.
No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS III)

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/06/2022

Sub Assistant Registrar(CS)

vrn

To

- 1.The Tahsildar,
Orathanadu Taluk,
Orathanadu,
Thanjavur District.
- 2.The Revenue Divisional Officer,
Thanjavur.
- 3.The Special Commissioner,
Land Acquisition,
Government of Tamil Nadu,
Chepauk,
Chennai.
- 4.The District Revenue Officer,
Thanjavur District,
Thanjavur.

+1 CC to M/s.D.SRINIVASARAGAVAN, Advocate (SR-23127[F] dated 02/05/2022)

+1 CC to M/s.D. R. MURUGESAN, Advocate (SR-22592[F] dated 29/04/2022)

+1 CC to M/s.SPL.GP (SR-23359[F] dated 04/05/2022)

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