



W.P.(MD)Nos.8799 & 11231 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 24.06.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.8799 & 11231 of 2017

and

W.M.P.(MD)Nos.6755, 8615, 8616, & 15964 of 2017

In W.P.(MD)No.8799 of 2017

M.S.A.Musthafa Ibrahim

... Petitioner

Vs.

1.The Principal Secretary /
Commissioner of Land Administration (FAC) and
Commissioner of Survey and Settlement,
Chepauk,
Chennai- 600 005.

2.The District Revenue Officers,
Madurai District.

3.The Tahsildar,
Madurai South Taluk,
Madurai District.

4.H.Aswath

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the entire records pertaining to the order passed by the first respondent in vide his proceedings in Proc.No.F2/22863/2015, dated 29.03.2017 and quash the same.



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For Petitioner : Mr.R.Anand
For R1 to R3 : Mr.N.Ramesh Arumugam
Government Advocate
For R4 : Mr.S.M.A.Jinnah

In W.P.(MD)No.11231 of 2017

N.Kumarasamy

... Petitioner

Vs.

1.The Commissioner of Land Administration &
Commissioner of Survey and Settlement,
Chepauk,
Chennai 600 005.

2.The District Collector,
Madurai District,
Madurai.

3.The Tahsildar,
Madurai South Taluk,
Madurai District.

4.M.S.A.Musthafa Ibrahim

5.Ummahani

6.Aswath

... Respondents

(R6 is impleaded vide order dated 24.06.2022 made in
W.M.P.(MD)No.10791 of 2017)



W.P.(MD)Nos.8799 & 11231 of 2017

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned proceedings of the first respondent in Proc.No.F2/22863/2015, dated 29.03.2017 and quash the same as illegal.

For Petitioner	: Mr.M.Ajmal Khan Senior Counsel for M/s.Ajmal Associates
For R1 to R3	: Mr.N.Ramesh Arumugam Government Advocate
For R4 & R5	: Mr.R.Anand
For R6	: Mr.S.M.A.Jinnah

COMMON ORDER

Heard the learned Senior Counsel appearing for the petitioner in W.P.(MD)No.11231 of 2017 and the learned counsel appearing for the petitioner in W.P.(MD)No.8799 of 2017 and the learned Government Advocate appearing for the official respondents and the learned counsel appearing for the impleaded respondent.

2. One Kaleemunisa Bibi was assigned 5 acres of land in Nallur Village on 14.11.1961 by the jurisdictional Tahsildhar. Alleging that this



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assignment was obtained by making a false representation, one Aswath lodged a complaint before the Commissioner of Land Administration, Chepauk, Chennai. He filed W.P.(MD)No.3224 of 2016 for directing the said authority to dispose of his representation. A direction as prayed for was given on 30.11.2016. Pursuant thereto, enquiry was held. The first respondent by the impugned order dated 29.03.2017 came to the conclusion that Kaleemunisa Bibi's husband A.S.M.Ibrahim was employed as railway guard during the relevant time and she was not liable to get assignment. It was also noted that subsequently, without getting permission from the Revenue Divisional Officer and in violation of the assignment condition prescribed under RSO 15-3(2)(iii), alienation was also made. On these twin grounds, cancellation order rests. Challenging the same, these Writ Petitions have been filed.

3. The learned Senior Counsel and the learned counsel appearing for the petitioners reiterated all the contentions set out in the affidavit filed in support of the respective writ petitions.



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4. Per contra, the learned Government Advocate as well as the learned counsel appearing for the private respondents submitted that no case for interference has been made out.

5. I carefully considered the rival contentions and went through the materials on record. In my view, both grounds are not sustainable. Let me take up the first ground. According to the authorities, assignment was obtained on misrepresentation or suppression of material fact. According to them, Kaleemunisa Bibi does not appear to have disclosed that her husband was employed as railway guard.

6. I do not want to go into the factual veracity of this statement. An order of assignment cannot be cancelled for whatever reason after such a long lapse of time. My attention is drawn to the order dated 24.08.2005 made in W.P.No.10277 of 1994. A learned Judge of this Court had held that an order of assignment cannot be set aside after a lapse of three years. This was the position that prevailed then.



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7. In any event, an order of assignment cannot be cancelled after a lapse of more than half century. Here, the authority is casting stigma on the assignee namely Kaleemunisa Bibi. The assignee passed away on 02.06.2004. A dead person cannot be stigmatized. If during her life time, the proceedings had been initiated, she probably could have had an appropriate defence to project. It is well settled that the reputation of the dead person is also a valuable right in law. By passing the impugned order, this right has been infringed by the authority.

8. The second ground on which the impugned order rests is that No Objection Certificate has been obtained from the jurisdictional authority. This ground is also not available. The Hon'ble Division Bench in ***W.A.No.1374 of 2008 dated 18.08.2010 (T.tirumalai Gounder Vs. State of Tamil Nadu)*** had held that if the revenue records had been mutated in favour of the purchaser, it can be taken as deemed consent of the authority. The learned senior counsel draws my attention to the fact that patta has been issued in favour of the subsequent purchaser also.



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9. The said decision of the Hon'ble Division Bench is squarely applies to the case on hand. The impugned orders are quashed. The writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

24.06.2022

Index : Yes / No
Internet : Yes/ No
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To

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G.R.SWAMINATHAN,J.

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