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W.A.Nos.968 and 876 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:17.07.2023

Delivered on: 31.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.A.Nos.968 and 876 of 2019
&
C.M.P.Nos.7262 and 6727 of 2019

P.Kumar ... Appellant in W.A.No.968 of 2019

Gnanadeepam ... Appellant in W.A.No.876 of 2019

Vs.

1.The District Revenue Officer
Vellore,
Vellore District

2.The Tasildhar
Arakkonam Taluk
Arakkonam, Vellore District .. Respondents in both Writ Appeals

Common Prayer:- Appeals filed under Clause 15 of Letters Patent praying to set aside the order passed by this Court in W.P.Nos.26181 and 26182 of 2005 dated 19.12.2018.



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For Appellants : MrV.Raghavachari, Senior Counsel
for
Mrs.V.Srimathi

For Respondents : Mrs.Geetha Thamaraiselvan, Spl.G.P

COMMON JUDGMENT

(Judgment of the Court was made by P.B.BALAJI,J.)

The petitioners who sought for issuance of writs of certiorari, aggrieved by the dismissal of the writ petitions, have preferred the present writ appeals. The learned single judge has dismissed the writ petitions filed by the appellants, in and by a common order dated 19.12.2018.

2. The case of the writ petitioners before the writ court is that their respective fathers had originally applied for grant of agricultural land for the purposes of cultivation. The 2nd respondent vide proceedings dated 31.05.1993 assigned lands to the respective fathers of the writ petitioners, free of cost. Admittedly, the assignment orders came with conditions that the assignees should convert the assigned lands as cultivable agricultural lands within a period 3 years from the date of respective assignments.



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3. In so far as W.P.No 26181 of 2005, it is the case of the petitioner that his father, after converting barren lands into agricultural lands, was carrying on irrigation and that there after he died on 09.12.1993, subsequent to which it is stated by the petitioner that he has been in possession and enjoyment of the lands assigned to his father. It is also that averred by the writ petitioner in this case that the petitioner had erected a small construction, in a portion of the lands in order to provide education for the downtrodden community people who are living in the same locality. A complaint was given by some ill motivated persons and the respondents conducted an enquiry and cancelled the assignment in and by the impugned proceedings.

4. In so far as the other writ petition, namely W.P.No.26182 of 2005, it is the case of the petitioner that despite lands being barren and rocky, the petitioner spent considerable amount of money and physical effort to render the lands fit for cultivation and that he had also commenced cultivation within the stipulated period of 3 years. However, based on a complaint from a local village person, the petitioner had to subject herself to an enquiry and the impugned order came to be passed, cancelling the



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assignment. In so far as the reasons assigned for the cancellation of the assignment in the present case, the petitioner states that the reasons leading to the cancellation of assignment were not well founded and were also in violation of principles of natural justice.

5. Before the learned single judge, the respondents herein did not file any counter. However, the matter was argued and the learned single judge proceeded to dismiss both the writ petitions.

6. Heard learned Senior counsel Mr.V.Raghavachari for Mrs.V.Srimathi, counsel for the appellants in both the Writ Appeals and Mrs.Geetha Thamaraiselvan, learned Special Government Pleader for the respondents in both the Writ Appeals. We have also perused the records produced before us.

7. Learned Senior counsel for the appellants would state that there was no violation of conditions stipulated and only a rocky portion of the lands was used for construction of an education institution, that too to cater to the residents of the locality and this cannot be termed as violation of the



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assignment condition, warranting cancellation of the assignment. The learned Senior counsel would also invite our attention to the field audit report of the District Revenue Officer which also confirmed the fact that urad, chilli plan and ragi were cultivated. According to the learned Senior counsel, the lands were being put for agricultural use and merely because a negligible portion was used for other purposes, it cannot be termed as a violation. In so far as the other writ petition, the reasons assigned for cancellation was that from Fasli years 1406-1414, no cultivation was done and further, the assignee was not from the same village. In so far as these reasons assigned for cancellation, the learned Senior counsel for the appellants would state that in compliance with the conditions of assignment, the petitioner commenced cultivation and even according to the respondents, for the Fasli years 1404 and 1405, cultivation was carried on by the appellants and the reason for not being able to carry on agricultural activities was only because of the fact that there was failure of monsoon and the appellants could not do any cultivation.

8. Per contra, the Special Government Pleader would contend that the impugned orders cancelling the assignments in favour of the appellants was



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just and proper, taking into account all relevant factors and that when admittedly the lands assigned, free of cost, were being exploited for commercial activities, no indulgence could be shown to such persons and she prayed for dismissal of the Writ Appeals.

9. At the outset, we have noticed that the impugned orders came to be passed after giving fair and reasonable opportunities to the appellants to put forth their objections. All the objections of the appellants have been considered and dealt with before a final decision was taken to cancel the assignments. It is seen from the impugned proceedings that the DRO carried out an inspection on 09.12.2004 and found the lands in survey no.224/7 was lying vacant without any cultivation; in respect of survey no.229/11 and 229/14 he has found that urad, groundnut and chilli were being cultivated. The report also mentions that a concrete building of a length of 41.6 meters and 30.4 metres breadth was constructed and adjoining the same a toilet has been constructed for a length of 25 meters and breadth of 3.2 meters. Thus, we are unable to accept the argument of the learned Senior counsel for the appellants that the construction put up is very negligible. Admittedly, even according to the appellants, an ITI is



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being run in the said building. Though it is specifically contended by the respondents even before the Writ Court that the ITI is being run on commercial basis and the learned Single Judge has also taken note of it, the same is not denied even in the Memorandum of Grounds filed in the present Writ Appeals. We are unable to agree with the submissions of the learned Senior counsel for the appellants that when a substantial portion of the property being used for agricultural activities would be sufficient to sustain the assignment. We have already noticed that the construction put up is by no means negligible or miniscule and it is clearly a violation of the assignment conditions and we also do not find the discussions or findings of the 1st respondent to be either perverse and unsubstantiated, warranting interference by issuance of Writ of Certiorari.

10. Even in so far as the other appellant is concerned, the 1st respondent had taken note of the fact that only for 2 years the appellant had cultivated the lands and thereafter for 8-9 years there has been no cultivation. An enquiry has been conducted by the Village Administrative Officer and the appellant had not been able to substantiate that she had been cultivating her lands by producing appropriate and relevant



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documents. One another reason assigned by the 1st respondent is that the appellant does not belong to the same village and she is only the wife of the other appellant and when there were persons belonging to same village and also from the Adi-Dravidar Community, who were suffering without any lands, assigning lands to two members of the same family was not justiciable and infact the 1st respondent has objectively considered the objections of the villagers in this regard and at the same time, the 1st respondent has also applied its mind to the explanation offered by the appellants. We do not find any infirmity in the findings of the 1st respondent.

11. The learned Single Judge has considered all the relevant factors in ultimately dismissing the Writ Petitions and the said orders cannot be challenged on the ground that it is contrary to law, erroneous, unjust and unconstitutional, as claimed by the appellants in the memorandum of grounds of writ Appeals. There is no merit in the contentions of the appellants that no proper enquiry was held before the impugned order came to be passed. As already stated, we have perused the records and we do not find that there has been any denial of fair opportunity to the appellants



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before the impugned orders came to be passed.

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12 For all the forgoing reasons, we do not find any merit the writ appeals and consequently writ appeals are dismissed. There is no order as to costs. Consequently, connected Civil Miscellaneous Petitions are closed.

(D.K.K.J) & (P.B.B.J)
31.07.2023

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kpr

To

1.The District Revenue Officer
Vellore,
Vellore District

2.The Tasildhar
Arakkonam Taluk
Arakkonam, Vellore District



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D.KRISHNAKUMAR, J.,
and
P.B.BALAJI, J

(kpr)

Pre-delivery judgment in
W.A.Nos.968 and 876 of 2019

31.07.2023