



W.P.Nos.37170 and 39843 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved On	21.11.2023
Orders Pronounced On	07.12.2023

CORAM:

THE HON'BLE MR JUSTICE P. VELMURUGAN

W.P.Nos.37170 and 39843 of 2015

and

M.P.Nos.1 and 1 of 2015

In W.P.No.37170 of 2015

M.Arunraj

...Petitioner.

Versus

- 1.The Commissioner (Land Reforms)
Chepauk, Chennai – 600 005.
- 2.Assistant Commissioner (Land Reforms)
Villupuram.
- 3.Mr.K.Krishnan
- 4.Mr.K.Murugan
- 5.Kala
- 6.T.Sanjay
- 7.Saraswati
- 8.Suseelavathi

...Respondents.

Prayer: Writ Petition No.37170 of 2015 has been filed under Article 226 of the Constitution of India to issue a writ of Certiorari calling for the records of the 1st Respondent culminating in his impugned proceedings bearing R.P.No.9 of 2012 dated 02.03.2015, quash the same and pass such further other orders.



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For Petitioner : Mr.V.Ayyadurai
Senior Advocate
for Mr.B.Dhiyaneswaran

For Respondents
[R3 to R8] : Dr.A.Thiyagarajan
Senior Advocate
for Mr.B.Sivakumar

[R1 & R2] : Mr.P.Gurunathan
Additional Government Pleader

In W.P.No.39843 of 2015

1. S.Sathishkumar
2.N.Sarath Babu ...Petitioners

Versus

1.The Commissioner (Land Reforms)
Chepauk, Chennai – 600 005.
2.The Revenue Divisional Officer,
Ambattur, Chennai.
3.The Assistant Commissioner (Land Reforms)
Villupuram.
4.Mr.K.Krishnan
5.Mr.K.Murugan
6.Kala
7.T.Sanjay
8.Saraswathi
9.Suseelavathi ...Respondents.

Prayer: Writ Petition No.39843 of 2015 has been filed under Article 226 of the Constitution of India to issue a writ of Certiorari calling for the records of the 1st Respondent herein pertaining to order dated 02.03.2015 and made in R.P.No.9/2012 quash the same and pass such further other orders.



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W.P.Nos.37170 and 39843 of 2015

For Petitioner : -No Appearance-

For Respondents
[R4 to R9] : Dr.A.Thiyagarajan
Senior Advocate
for Mr.B.Sivakumar

[R1 to R3] : Mr.P.Gurunathan
Additional Government Pleader

COMMON ORDER

The Petitioners have filed these writ petitions seeking for writ for issuance of Writ(s) of Certiorari calling for the records of the 1st Respondent herein, pertaining to order dated 02.03.2015 made in R.P.No.9/2012 passed by the first respondent/The Commissioner (Land Reforms) Chepauk, Chennai – 600 005.

2.The case of the petitioners is that they purchased agricultural land at No.43, Kadapakkam Village, Ambattur Taluk, Survey No.259/2H1 part R.S.No.259/2H1 measuring 0 Acre 56 Cents as per Patta 0.19.0 hectares under a registered sale deed dated 04.10.1991.

3.The above said land originally belonged to one Y.Rajammal and she purchased the larger extent under a registered sale deed bearing



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Document No.1405 dated 20.07.1996. After her lifetime, her son Y.Sambu Prasad succeeded to her property and he was in enjoyment of the property(ties) during his lifetime and he sold the property(ties) to one K.C.Sharma under a registered sale deed bearing Document No.3618 dated 29.07.1988 and he sold the said property to S.Ramasamy Nadar and A.D.Dhanasekaran under a registered sale deed bearing Document No.3764 dated 03.08.1988 from him. The petitioners purchased an extent of 0 Acre 56 Cents from S.Ramasamy Nadar and A.D.Dhanasekaran under a registered sale deed bearing Document No.3605 dated 04.10.1991. After his purchase , he obtained the Patta and the land was sub-divided in to 259/2H1.

4.However, the land originally belonged to one Thiru.Venkanna Chowdry of a larger extent of 3.90 Acres in Survey No.259/2 of Kadapakkam Village and it was in enjoyment of the family of Thiru.Venkanna Chowdry who was running a charity in the name of Venkanna Chowdry Charity. The "estate" of Venkana Chowdry was looked after by his son Sambu Prasad and the said land was attached with the provisions of The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 (Tamil Nadu Act 58 of 1961) and under the said Act,



there was a "surplus land" and the land an extent of 3.90 Acres in Survey No.259/2 was declared as "surplus land" and then they sub-divided it of an extent of 1.95 Acres in Survey No.259/2B and it was declared as "surplus land" under the said Act and there was a Notification under Section 18 (1) of the Act published in Tamil Nadu Government Gazette, dated 18.11.1981. Likewise, another extent of 1.24 Acres out of the remaining extent of 1.95 Acres in S.No.259/2A, was declared "surplus" and the same was Notified under Section 18 (1) of the Act and was published in the Tamil Nadu Government Gazette, dated 24.03.1982 under the provisions of amendment Act No.37 of 1972. After the declaration Notification, the land, of an extent of 1.95 Acres in S.No.259/2B dated 03.02.1983 was also assigned to one Anandan and one Dinakaran. Anandan was assigned land of 1.00 Acres and Dinakaran was assigned land of 0.95 Acres in S.No.259/2A 1.245 Acres declared as "surplus" from Venkanna Chowdry Charity in which 06.0 Acres was assigned to one Murugesan and 06.4 Acres was assigned to one Muthu. Subsequently, in W.P.No.5561 of 1983 and W.P.No.7900 of 1985, the High Court stayed the assignment and there was proceedings and the said writ petitions were subsequently transferred to Tamil Nadu Land Reforms Special Appellate Tribunal on the latter's formation and re-numbered as



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TRP.No.181/91 and they were disposed of 28.04.1982 with a direction to the Appellate Authority, the District Revenue Officer (Land Tribunal) to entertain the appeal and dispose of the same on merits. The said Land Tribunal, Thanjavur, allowed the appeal. The order of the Land Tribunal is in APDSL No.177/92 in ***Tmt.Rajammal and 6 others***, dated 23.05.1995 with a direction to re-assign the land in S.No.259/2A, measuring 1.24 Acres, after publishing “B” and “D” Notices properly and the lands to the extent of 1.24 Acres in S.No.259/2A were allotted to four persons namely K.Thulasi,K.Krishnan, K.Murugan, Mrs.K.Rajammal. The respondents 3 to 5 are the legal heirs of Mr.Thulasi.

5.The writ petitioners are *bona-fide* purchasers of the land in question for having purchased the same for a valuable consideration without noticing any defect in title and therefore, the above said Notification and assignment will not bind on the writ petitioners. Even during the assignment, the petitioners were in possession and the name had also been mutated in the Revenue Records. The Revenue Records also shows that the petitioners and his predecessors-in-title are in possession of the land, and therefore, they are challenging the assignment



made in favour of the respondent Nos.3 to 5, which is illegal and void in law. The land(s) was/were declared as "surplus land" as per the publication made in Tamil Nadu Government, Gazette dated 04.03.1982 and there was failure to make the relevant entries in the Records of the Taluk Office, Village Account and in the Sub-Registrar Office, thereby made in the land assignments Section 18 (1) of the Act was invalid. Therefore, the writ petitioners are *bona-fide* purchasers from the original owner and no notice of Declaration and assignment were intimated to the petitioners. Therefore, the impugned order passed is liable to be set aside, in both the writ petitions.

6.The learned senior counsel appearing for the 4th respondent has filed their counter affidavit stating that there is no legal right of the petitioners to file a writ petition under Article 226 of the Constitution of India. The proceedings under the provisions of aforesaid Tamil Nadu Land Reforms Act the Notification under Section 18 (1) of the Act, published in the Tamil Nadu Government Gazette dated 24.03.1982 declaring an extent of 1.24 Acres in S.No.259/2A, Kadampakkam Village which is in possession and enjoyment of “Venkanna Chowdry Charity” was declared as “surplus” and vested with the Government.



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7.The learned senior counsel appearing for the 4th respondent further submitted that, similarly, under Section 18 (1) of the aforesaid Tamil Nadu Land Reforms Act, an extent of 1.95 Acres in S.No.259/2B declared "surplus land", which was in possession and enjoyment of the Sambu Prasad, thereby in the above proceedings in S.No.259/2A of an extent 1.24 Acres of “Venkanna Chowdry Charity” was declared as "surplus land" and in S.No.259/2B of an extent of 1.95 Acres of Sambu Prasad, declared as "surplus land" as per the Notification and property(ties) vested with the Government. The acquired excess land were assigned to the four persons namely in S.No.259/2A and in S.No.259/2B viz., one Murugesan, Muthu, Anandan and Dinakaran. The above said assignment was challenged with regard to S.No.259/2A by one Rajammal and 6 others and the assignment dated 03.02.1983 was set aside by the Appellate Authority, District Revenue Officer (Land Tribunal) on the ground that there was no proper paper publication in respect of “B” and “D” Notices as enshrined in the said Act. The Land Tribunal remanded the matter and re-assigned S.No.259/2A, measuring 1.24 Acres and after proper publication of “B” and “D” Notices, reassignment was made on 04.03.1996 in favour of one K.Thulasi,



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K.Krishnan, K.Murugan and K.Rajammal. The above assignment order dated 04.03.1996 was challenged by one A.Dhanam and others in R.P.A.No.09 of 2012 before the Land Commissioner stating that they have purchased the land from “Venkanna Chowdry Charity” for valuable consideration and they are the *bona-fide* purchaser of the land through a registered sale deed Document. The assignments were made in favour of the third parties without issuing any Notices to them and the same was against the principle of natural justice. The Land Commissioner who heard the appeal, canceled the assignments made in favor of K.Thualsi and others and the Land Commissioner was directed to allot the suit lands to the purchasers on collection of guideline value price in respect of the year of purchase, as the penalty, since their purchase of the land is invalid as per Land Ceiling Law and they are also the *bona-fide* purchasers, as these are difficult to get possession and it further led to various litigations. The above said order passed by the Land Commissioner dated 30.04.2000, was challenged by filing W.P.No.8145 of 2004 before this Court to set aside and the matter was remanded back to the Commissioner of Land Reform for fresh disposal in accordance with law. The above said writ petition was disposed on 07.06.2011, and



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the matter was remitted back for fresh consideration. When the matter was taken by the Land Commissioner after giving notice to all the parties, the learned Commissioner passed an order on 02.03.2015 and after recording the findings based on the written arguments filed by the petitioners, coupled with the file of the District Revenue Officer, present status of the land and sub-division etc., and considering the Revenue Records, it was held that when they purchased the land from the third party, who had no right and title over the property on the date of sale deed, the sale affected by the person who had no title, is invalid, as the land was in possession of Venkanna Chowdry Charity record in respect of S.No.259/2A of the extent of 1.24 Acres, which was declared as "surplus land" by order dated 24.03.1982. Similarly, the property held by Sambhu Prasad, who is son of the Venkanna Chowdry holding the property of an extent of 1.95 Acres is in S.No.259/2B. In the meanwhile, after declaration of Section 18 (1) of the said Act, the said Sambhu Prasad sold the land to various persons, which is invalid. Once the Declaration was made under Section 18 (1) of the said Act, the said Sambhu Prasad who sold the land to various persons, is also invalid and once when the Declaration was made under the said Land Reform Act, and published in Gazette, the property(ties) vested with the Government



and it is a Government's property. Therefore, the said Sambhu Prasad had no right and title to sell the property and the purchasers have no right to purchase the property(ties), as the sale deed prescribes no right and title. Regarding the sub-division, putting up shed etc., the same does not confer any title on to the buyers. Therefore, the order passed by the Land Commissioner dated 02.03.2015 is valid and was acted in accordance with law. As per the order of the Land Commissioner dated 02.03.2015, proceedings have been initiated and the private respondents have been put on possession and therefore, the writ petitions are liable to be dismissed.

8.Mr.V.Ayyadurai, learned Senior counsel appearing for Mr.B.Dhiyaneswaran for the petitioner submitted that the petitioners purchased agricultural land in No.43, Kadapakkam Village, Ambattur Taluk, Survey No.259/2 part, R.S.No.259/2H1, measuring 0 Acre 56 Cents as per Patta 0.19.0 hectares, under a registered sale deed, dated 04.10.1991 from the rightful owner, and the land comprising in S.No.259/2A was purchased by various persons with sub-divisions and Pattas have also been issued to the purchasers. The said property(ties) originally belonged to one Sambhu Prasad, son of Venkanna Chowdry



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and he sold the property(ties) to one Y.Rajammal under a registered sale deed dated 20.07.1996, and after her lifetime, her son Sambhu Prasad succeeded to the property(ties) and sold the property(ties) to one K.C.Sharma, under a registered deed dated 21.07.1998. Thereafter, he sold the property under a registered sale deed, dated 03.08.1988 to one S.Ramasamy Nadar and A.D.Dhanasekaran and from them the petitioner purchased the property(ties) of an extent of 0 Acre 56 Cents under a registered sale deed dated 04.10.1991 and he obtained the Patta and the same was sub-divided as S.No.259/2H1 and therefore, the petitioners are in possession of the property and neither the said Sambhu Prasad, nor the Venkanna Chowdry or Y.Rajammal, were served with the Notices under the said Land Reforms Act and the enquiry was also conducted and the land was declared as "surplus land" S.No.259/2 of an extent of 3.90 Acres, were sub-divided into S.No.259/2 A and B and 1.95 Acres each. The land(s) of the petitioners fall under S.No.259/2A, out of which, only 1.24 Acres were declared as "surplus land" and only that alone is assigned and the land(s) of the petitioners were subsequently sub-divided as S.No.259/2H1 which is not a "surplus land" and the petitioners and his predecessors-in-title and even the subsequent purchasers from the original owner Sambhu Prasad were not served with the notice and on the date of



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assignment, the petitioners were in possession of the land in question and therefore, the assignment itself is not valid. The petitioners have not followed the procedures as contemplated under the said Land Reforms Act and however, the petitioners were a *bona-fide* purchasers, without any notice of defect in title for valuable consideration, and they are in possession of the property, though assignment was also canceled. Subsequently, the Land Commissioner, while passing the impugned orders had not considered the facts. However, he submitted that the action of the official respondents is against Article 31 (B) & 300 A of the Constitution of India and the persons are entitled to have the property rights and the right cannot be taken away and unless materials are produced to show that, before taking declaration of the "surplus land", the Notices were not issued on the rightful owner of the property and the Revenue Records show the owner of the property and they have not been given any opportunity to show that the lands were not "surplus land" and they are agricultural lands and the possession, was within the rightful owner of the land. Though the petitioners are the immediate predecessors who have purchased the property(ties) for valuable consideration without any Notice, in defect in title and therefore it is in violation of Principles of Natural Justice and that without giving any notice and without following



due process of law, the land(s) have been declared surplus as it was also subsequently assigned to the third party/purchaser. Further, the official respondents have not proved that they have taken the possession of the land(s) and there are no records to show that there is any physical possession from the land owners and also the adequate compensation has also been paid to the owner(s) for the "surplus land(s)" and therefore, in the absence of taking possession, payment of compensation, the Declaration under Section 18 (1) of the above said Land Reforms Act itself is void and it is not valid and the respondents have not taken the land(s) under due process of law. Further they, have no other material to show that the physical possession was taken over from the land owner(s) by paying the compensation for "surplus land" and "assignment" has also been granted to the private respondents and physical possession was handed over to them. Therefore, there is violation of the Principles of Natural Justice and there is also violation of fundamental rights of individual/purchasers according to the Constitution of India, but there was also procedural lapses, and since the writ petitioners are the *bona-fide* purchasers, without Notice of any defect in title for valuable consideration. Hence, the impugned orders of the Land Commissioner are



liable be set aside and the writ petitions may be allowed.

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9.The learned senior counsel appearing for the private respondent submitted that the petitioners are not the land owners and they are only subsequent purchasers, that too from the 5th hand and prior to purchasing of the lands by the writ petitioners, there are Documents which were changed to five persons and the petitioner's vendors have no right and title to convey the properties as of theirs. The petitioners are said to have purchased the properties only in the year 1991, under a registered sale deed dated 04.10.1991, whereas the vendor purchased the property under a registered sale deed dated 03.08.1988 and that even the vendors have no right and title and they had purchased the properties from one K.C.Sharma on 21.07.1988 and there was sale of their vendor itself, after the land was declared as "surplus land" and the lands vested with the Government and the possession was also taken over by the Government. Neither the petitioners, nor the vendors had any right or title to purchase the properties in question and the sale in favor of the petitioners themselves is not valid. Since the vendor of the Petitioners have no right and title, the Petitioners who do not have right and title, to the properties in question cannot convey title. Therefore, the petitioners have no *locus-*



standi to challenge the acquisition proceedings and though once the land(s) declared as "surplus land", the land vests with the Government.

The petitioners were not the owners at the time of issuance of Notification under Section 18 (1) under the Government Gazette under the Land Acquisition Act and therefore, the vendors have not challenged the same and the original owner(s) have also not challenged the same and they have not questioned even the possession of the "surplus land(s)".

10.The learned Counsel appearing for private respondents submitted that the land was taken over by the Government under the Land Reforms Act and the lands were declared as "surplus land" and thereafter, the lands were assigned to them. Though the petitioners have challenged the impugned orders considering all the materials available on record one more opportunity was given to the land-owner and also to the subsequent purchasers of the land without following due procedures of law and therefore, the petitioners are only subsequent purchasers and they have no *locus-standi* to challenge the same and therefore, the writ petitions are liable to be dismissed.

11. Heard both sides and perused all the available materials on



record.

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12.The land(s) originally belonged to one Venkanna Chowdry and the Venkanna Chowdry was looking after the property(ties) during his lifetime, the property originally fall under S.No.259/2 of total extent of 3.90 Acres and the Venkanna Chowdry had a son, named Shambu Prasad who succeeded the property(ties) and the land was/were declared as "surplus land" under the said Tamil Nadu Land Reforms Act and the Notification under Section 18 (1) of the said Act was Notified in the Government Gazette, dated 15.02.1970 and thereafter, another Notification was also issued on 18.11.1981. Therefore, the land(s) was/were declared as "surplus land" and the petitioners purchased the properties from their vendors who had purchased the "surplus land" on 29.07.1988. Thereafter, on 03.08.1988, the petitioners had purchased the "surplus land" and, therefore, it is much later to the Notification and Declaration. Once the land was Notified as surplus, the land vested with the Government, the same cannot be sold by the owner of the property. Therefore, the contentions raised by the learned counsel for the petitioners are that neither the physical possession was taken nor any amounts were made towards the said property(ties) is not acceptable.



However, the acquisition proceedings were initiated in the year 1970 itself and thereafter in 1981, and also in the year 1982, and therefore the land was declared as "surplus land" way-back in 1982 itself and it was published in the Government Gazette, dated 24.03.1982 under the provisions of Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 (Tamil Nadu Act No.58 of 1961) [Amended Act 37 of 1972] and therefore, the land(s) was/were declared as "surplus land" and as per the Notification under Section 18 (1) of the said Act and subsequently, the land(s) was/were assigned to the third party, that too, the landless poor. Therefore, the petitioners who are none other than the subsequent purchasers, who purchased the property in 1991, have no *locus-standi* to question to the same and also the petitioners must not be treated as a "bona-fide" purchasers. Even otherwise he has not purchased the land from the owner of the land and he is not the immediate purchaser or the owner of the "surplus land". After declaring the land as "surplus land" and in order to escape from the clutches of law and encumbrances were also created in respect of the said land(s) and therefore, the subsequent alienation is invalid and hence from the invalid alienation, the petitioners cannot claim any title or relief. Hence, this Court finds that land(s)



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was/were already declared as "surplus land(s)" and subsequently, they were also assigned to the land-less poor and the petitioners have come only at the later point of time after the assignment.

13. Therefore, when the vendors have no right to convey the property(ties) the writ petitioners would not derive any better title, and hence they are not entitled to the relief sought for, in these writ petitions. Therefore, the orders passed by the Land Commissioner is on facts and they have also been given opportunity and to all the parties and also after hearing the arguments of all parties, and also after considering the written submissions, the impugned order(s) are well considered and finding no merits in the writ petitions, the writ petitions are liable to be dismissed.

14. Accordingly, the writ petitions are dismissed. There shall be no order as to costs. Connected miscellaneous petitions are closed.

07.12.2023

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation Case : Yes/No
nst
To:



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1.The Commissioner (Land Reforms)
Chepauk, Chennai – 600 005.

2.The Revenue Divisional Officer,
Ambattur, Chennai.

3.The Assistant Commissioner (Land Reforms)
Villupuram.

P. VELMURUGAN.J

nst

Pre-Delivery Order in

W.P.Nos.37170 and 39843 of 2015

and

M.P.Nos.1 and 1 of 2015



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W.P.Nos.37170 and 39843 of 2015

Order Pronounced On

07.12.2023