



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30-08-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.24138 of 2023

S.Richard

... Petitioner

Vs.

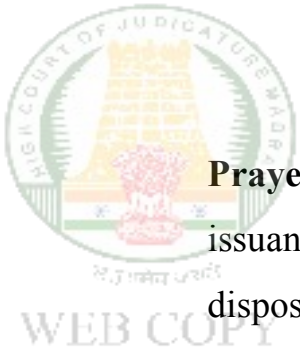
1.The Principal Secretary/Commissioner of
Land Reforms,
Chepauk,
Chennai-600 005.

2.The District Revenue Officer (Land Reforms),
V.O.C. Nagar,
Chengalpattu-603 001.

3.The Revenue Divisional Officer (Land Reforms),
Office at Tambaram,
Chennai-600 126.

4.Dr.V.Padmini

... Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first respondent herein to dispose the revision dated 30.11.2022, pending before the first respondent.

For Petitioner : Mr.G.Thangavel

For Respondents-1 to 3 : Mr.T.Venkatesh Kumar,
Special Government Pleader.

ORDER

The writ on hand has been instituted to direct the first respondent to dispose of the revision petition dated 30.11.2022 pending before the first respondent-Principal Secretary/Commissioner of Land Reforms, Chennai.

2. The petitioner states that the Settlement Deed was executed on 12.02.2007 by Document No.1283 of 2007 before Sub Registrar Office (SRO), Tambaram by the father of the writ petitioner settling the subject property in his favour. The petitioner further states that he is the absolute owner and is possession and enjoyment of the subject property.



3. The petitioner states that his father had enjoyed the property absolutely after making due payment to the concerned Competent Authority.

The father of the writ petitioner was an Ex-Serviceman and he had executed Settlement Deed in favour of his son, who is the writ petitioner herein, on 12.02.2007.

4. The third respondent-Revenue Divisional Officer (Land Reforms), admittedly, issued show cause notice to the writ petitioner on 13.08.2021. After conducting an enquiry, the third respondent passed an order in proceedings dated 30.09.2021, cancelling the assignment granted in favour of the writ petitioner. The petitioner preferred an appeal before the District Revenue Officer, who in turn had rejected the appeal by confirming the order passed by the Revenue Divisional Officer. The petitioner further preferred revision before the Commissioner of Land Reforms, Chennai, on 30.11.2022. Since the said appeal is pending, the petitioner has chosen to file the present writ petition.



5. The learned counsel for the petitioner mainly contended that the petitioner is cultivating the subject land as per the assignment conditions. His father was cultivating the subject land and settled the property in his favour. After the death of the father of the writ petitioner, the writ petitioner states that he is continuing the agricultural activities in the Government land.

6. The learned Special Government Pleader, appearing on behalf of the respondents 1 to 3, raised an objection by stating that the Revenue Divisional Officer visited the subject property and found that the petitioner is not cultivating the land, but he has put up a Compound Wall in the Government property and it remains as a vacant land.

7. That apart, the land was originally assigned in favour of the father of the writ petitioner, namely, Mr.J.G.Samson in the year 1997 and the assignment was a conditional one. The conditions stipulated in the assignment had been violated by the father of the writ petitioner as well as by the writ petitioner subsequently after the death of his father and thus the Revenue Divisional Officer has initiated action and after conducting enquiry,



an order dated 30.09.2021 was issued. An elaborate enquiry was conducted by the Revenue Divisional Officer with reference to the Revenue Standing Orders and accordingly, the assignment was cancelled and the subject land was resumed in favour of the Government. The District Revenue Officer also confirmed the said order of the Revenue Divisional Officer.

8. The learned Special Government Pleader, appearing on behalf of the respondents 1 to 3, on instructions, made a submission that the land is not being cultivated by the petitioner as of now. It is a valuable property in Tambaram Taluk, measuring an extent of about 1 Acre and thus, the valuable Government land of an extent of about 1 Acre, cannot be now assigned in favour of the petitioner. The petitioner was not the Assignee and his father was the Assignee, who had violated the conditions stipulated under the Assignment Order. That being the factum, the present writ petition is to be rejected.

9. Condition No.6 of the conditional assignment reveal that the



land assigned shall not be sold or otherwise alienated before the expiry of the period of twenty years from the date of assignment or before the payment of the value of the land and buildings and trees thereon in full, whichever is later and not even thereafter in respect of lands assigned to a member of Scheduled Castes or to a member of Scheduled Tribes except to other members of the Scheduled Castes or to the other members of the Scheduled Tribes, as the case may be.

10. Condition No.9 of the conditional assignment stipulates that the Assignee shall engage himself in direct cultivation of the land assigned. Condition No.12 of the conditional assignment stipulates that the assignment shall be liable to be cancelled in case of violation of any of the conditions of assignment. Therefore, it is unambiguous that the Assignee shall engage himself in direct cultivation of the land assigned by the Government.

11. In the present case, the Original Assignee is no more and



the Original Assignee had settled the Government property in favour of his son, who is the writ petitioner herein. Such Settlement Deed executed without obtaining any prior permission or re-assignment is to be construed as violations of the conditions imposed in the Assignment Order. More-so, the Assignment Order states that the Assignee shall engage himself in direct cultivation of the lands assigned and he cannot settle the property in favour of any person.

12. The lands are assigned only for landless poor persons to lead their livelihood by the Government. Such assigned lands are to be utilised for the purpose for which it was assigned and any violations of conditions shall empower the Authorities to cancel the assignment by following the procedures.

13. In the present case, the father of the writ petitioner himself was an Ex-Serviceman and retired from Indian Air Force. The petitioner served as a Government Teacher and now aged about 74 years. The petitioner is a State Government Pensioner and he is now receiving a decent amount of pension. The very factum reveals that both the writ petitioner as



well as his father, are ineligible persons for the purpose of assignment of Government lands.

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14. Condition No.1 of the conditional assignment reads as under:-

“(1) The assignment shall be liable to be modified or cancelled if it is found that it was made under a mistake of fact or owing to misrepresentation or fraud or that there was an irregularity in the procedure. The assignment shall also be modified or cancelled if it is shown that the extent assigned to the Assignee is in excess of the limits prescribed in the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 (Tamil Nadu Act 58 of 1961) or the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965, as the case may be.”

15. Even in case of misrepresentation or irregularity in following the procedures for assigning the Government lands, such assignments are liable to be cancelled by invoking the provisions prescribed in the Revenue Standing Order (RSO) 15. RSO 15(3) states, 'who all are



eligible for assignment'. Sub Clause (i) to RSO 15 (3) denotes that “only landless and poor persons, who are likely to engage themselves in direct cultivation shall be eligible for assignment of land free of land value subject to the conditions of assignment, imposed in the 'D' Form Patta”.

16. RSO 15(2)(xi) states about the 'Resuming Authority'. Accordingly, the Authority Competent to resume or re-enter on lands for breach of any conditions of assignment, are enumerated.

17. In the present case, the father of the writ petitioner was an Ex-Serviceman and under the said category, the subject land was assigned in his favour on condition. As per the condition, the Assignee shall engage himself in direct cultivation of the lands assigned. But the lands assigned shall not be sold or otherwise alienated before the expiry of the period of twenty years from the date of assignment as stipulated in Condition No.6 of the assignment. More-so, the petitioner was working as Government Teacher and retired from service and receiving the decent State Government Pension.

18. Admittedly, the assignment was not granted and transferred



in the name of the petitioner nor the writ petitioner cultivated the land after the death of his father, who was the Original Assignee.

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19. The learned Special Government Pleader, on instructions from the respondents 1 to 3, made a submission that the land is not being cultivated, but fenced by the petitioner and the learned Special Government Pleader also circulated a photograph to establish that the lands are not being utilised for cultivation.

20. If the lands are valuable, then also the Government is empowered to resume the Government land. RSO 15 unambiguously stipulates that the valuable lands can be resumed if the Original Assignee has violated the conditions or such lands are required by the Government for public purposes. Since the father of the writ petitioner, who was the Original Assignee, has violated the assignment conditions and the petitioner is not the Assignee nor cultivating the Government land after the demise of his father, the direction as such sought for in the present writ petition deserves no merit consideration.



21. Merely directing the Appellate Authority to dispose of the representation would do no service to the cause of justice. Since in the present case, the petitioner's father had violated the conditions and the petitioner is not being the Assignee nor the assignment granted in the name of his father was transferred to the name of the writ petitioner, the present writ petition deserves to be rejected. The Revenue Divisional Officer and the District Revenue Officer have passed an order to resume the property belonging to the Government and the subject property is falling in the Chennai Built Area.

22. In view of the facts and circumstances, the respondents are directed to initiate immediate action to resume the Government property and utilise the same for public purposes by following the procedures.

23. With the above directions, the present writ petition stands dismissed. However, there shall be no order as to costs.



**The Registry is directed to list the matter before this Court
under the caption 'For Reporting Compliance' on 05.09.2023.**

30-08-2023

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn

To

1.The Principal Secretary/Commissioner of



Land Reforms,
Chepauk,
Chennai-600 005.

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- 2.The District Revenue Officer (Land Reforms),
V.O.C. Nagar,
Chengalpattu-603 001.
- 3.The Revenue Divisional Officer (Land Reforms),
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S.M.SUBRAMANIAM, J.

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