



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.30020 of 2017
and
W.M.P.No.32552 of 2017

Tmt.Unnamalai

... Petitioner

Vs.

1.The Principal Secretary /
Commissioner of Land Administration,
Ezhilagam, Chepauk, Chennai – 600 005.

2.The District Revenue Officer,
Thiruvannamalai.

3.The Revenue Divisional Officer,
Thiruvannamalai.

4.The Tasildhar,
Chengam Taluk,
Thiruvannamalai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the respondents 1 and 2 in Proc. No. G2/21725/2016 dated 31.05.2017 and in Rc. No.B4/14982/2012 dated 12.08.2016 respectively and quash the same.



For Petitioner : Mr.A.Sivaji

For Respondents : Mr.Abishek Murthy
Government Advocate

ORDER

The proceedings of the Principal Secretary and Commissioner of Land Administration dated 3105.2017 dismissing the Revision Petition filed by the writ petitioner is under challenge in the present writ petition.

2. The petitioner states that an extent of 0.30.0 Hects (74 cents) in S.No.619/6 of Veeranantahal Village is the subject matter of dispute. An extent of 12.31 acres in S.No.619 was reserved for depressed class people as per the revenue records of the then combined North Arcot District. An extent of 0.74.0 Hects was originally assigned in favour Suppi, wife of Koonan, who belonged to Scheduled Caste. After her death, her daughter Pudural, wife of Munisamy sold the same to the 3rd party on 13.02.2001 under the Document No.281 of 2001 S.R.O, Chengam. However, the possession was not given to the said vendees. The petitioner states that she belongs to Scheduled Caste by virtue of registered sale deed under Document No.2272 of 2001 for a valid consideration, the petitioner purchased an extent of 0.30.0 Hects and she was



put in possession of the same. The petitioner applied for assignment of the said land. The order of assignment was issued by the 4th respondent on 17.07.2012, the assignment was granted in favour of the petitioner after cancelling earlier assignment by the 3rd respondent on 14.03.2012.

3. Challenging the cancellation of assignment in order dated 14.03.2012, the vendees filed an Appeal to the 2nd respondent. Since there was no interim order and the land vested with the Government, the petitioner submitted an application and she got assignment on 17.07.2012. The assignment granted in accordance with the provisions contemplated. The assignment was granted in favour of the petitioner was not the subject matter of the Appeal. However, the 2nd respondent suo-moto cancelled the assignment made in favour of the petitioner. The petitioner challenging the said order preferred an Appeal before the 1st respondent. Since no stay was granted by the Appellate Authority, the petitioner filed W.P.No.28576 of 2013 to set aside the order of the 1st respondent and to grant stay of cancellation of assignment granted in favour of the petitioner. Interim stay was granted by this Court and the writ petition was disposed of on 04.02.2015 by directing the 1st respondent to dispose of the Appeal on merits



within a period of three months.

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4. Vendees namely Thangavel, Appal and Palani sons of Rama Gounder filed revision against the order of the 2nd respondent, rejecting their Appeal. The 1st respondent passed a common order dated 19.11.2015, rejecting the request of the vendees and remanded the case relating to the claim of the petitioner alone to be considered by the 2nd respondent afresh. Thus, the 1st respondent confirmed the assignment granted in favour of the predecessor in title of the vendors of the said Thangavel etc., on 19.11.2015 and it became final. The 2nd respondent after notice and after hearing the parties again passed an order on 12.08.2016. Thus, the petitioner filed a statutory appeal on 24.10.2016 before the 1st respondent. The 1st respondent by an order dated 24.11.2016 rejected the request of stay. Again the petitioner filed W.P.No.5657 of 2017. This Court passed an order on 08.03.2017 for early disposal of the Appeal filed by the petitioner before the 1st respondent. Accordingly, the 1st respondent by order dated 31.05.2017 dismissed the appeal filed by the writ petitioner. Therefore, the petitioner is constrained to move the present writ petition.

5. The learned counsel for the petitioner mainly contended that the 4th



respondent has rightly assigned the land in question to the eligible assignee belonging to the depressed class. The assignment granted in favour of the petitioner was not disputed. Therefore, the order impugned is to be set aside.

6. In the event of cancelling the assignment, the land will be occupied by the unlawful or ineligible persons, which would be detrimental to the Government. Keeping the land as waste and by cancelling assignment in question, no purpose would be served. The petitioner is in possession of the land and the learned counsel for the petitioner has produced certain documents and photographs to establish that the petitioner is in possession and is cultivating the land. Therefore, there is no reason to validate the order impugned passed by the 1st respondent.

7. The learned Government Advocate appearing on behalf of the respondents relying on the counter affidavit filed by the 2nd respondent has stated that an extent of 0.74 acres of assessed waste dry land reserved for Depressed Class people at Veeranandal Village of Chengam Taluk, was assigned to one Suppi wife of Koonan of the above village during the year 1902. After the above said Subbi the land was registered in the name of her daughter Pudural wife of Munusamy. The said Pudural along with her legal



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heirs sold the above land to Thangavel, Appal, Palani sons of Raman of the above village on 13.02.2001, who belongs to the Caste Hindu. Again the above said Pudural and her legal heirs sold the above land, being second sale, to Unnamalai wife of Jagannathan, who is the writ petitioner on 04.05.2011. When the sale of the above land to the Caste Hindus was brought to the notice of the 3rd respondent, Revenue Divisional Officer, Tiruvannamalai, the assignment of the land to Subbi referred to above was cancelled in the proceedings No.K.Dis.(A4) 9925/2011 dated 14.03.2012 of the 3rd respondent. It is pertinent to submit that the petitioner has admitted that “the cancellation of assignment is valid and no exception can be taken to the same since the conditions of the assignment was violated by selling the land to third parties that too to a non SC”. Subsequently, the above land was assigned to the above said Unnamalai by the 4th respondent, the Tahsildar, Chengam in Taluk D.K.No.2/1422 on 17.07.2012. This assignment was also cancelled by the 2nd respondent, District Revenue Office, Tiruvannamalai in her proceedings No.B4/14982/2012 dated 01.07.2013 on the ground that the above land was not under the enjoyment of the assignee and an appeal against cancellation of earlier assignment was pending before the 2nd respondent.



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8. The learned Government Advocate appearing on behalf of the respondents further made a submission that on the Appeal filed by the petitioner, the 1st respondent in proceedings No.G2/19952/2013 dated 19.11.2015 set aside the above orders of the 2nd respondent cancelling assignment of the above land to the petitioner on the ground that the no opportunity was given to the petitioner before passing the orders and remanded back to the 2nd respondent to hear the petitioner and pass appropriate orders. The 2nd respondent, who heard the petitioner has passed orders in his proceedings No.B4/14982/2012 dated 12.08.2016 cancelling the assignment that the lands are not under the enjoyment of the petitioner. The 1st respondent dismissed the appeal of the petitioner against the 2nd respondent orders referred to above in his proceedings No.G2/21725/2016 dated 31.05.2017. Against this order, the present writ petition has been filed.

9. The learned Government Advocate appearing on behalf of the respondents states that the contention of the petitioner that Tmt.Pudural sold the land on 13.02.2001 to the third parties but possession was not handed over is not maintainable, since on sale of the land, the lands were handed



over as per the documents. Further, the contentions of the petitioner that she purchased the land on 04.05.2001 is not maintainable, since the land was already sold on 13.02.2001 to the third parties. However, the land was assigned to the petitioner by the 4th respondent on 17.07.2012. This assignment has been cancelled by the 2nd respondent. The appeal of the petitioner against the above orders of the 2nd respondent has been dismissed on 31.05.2017 as the lands were not under the enjoyment of the petitioner at the time of assignment.

10. Considering the arguments as advanced by the respective parties to the *lis* on hand, the assignment made in favour of the petitioner was not in dispute. However, the authorities found that the land was assigned to the petitioner by the 4th respondent on 17.07.2012. This assignment has been cancelled by the 2nd respondent for violation of the Assignment Rules on 01.07.2013 by the 2nd respondent.

11. The authorities conducted an inspection and found that the petitioner was not possessing and enjoying the land and even at the time of assignment, the petitioner was not in the enjoyment of the subject property. Therefore, the assignment granted by the Government to the landless poor



cannot be continued in violation of the rules in force. Thus, cancellation of assignment was made after conducting enquiry and inspection and the authorities found that the petitioner was not in possession of the land.

12. In view of several discrepancies and changes of assignment, the authorities found that the petitioner was not in possession of the subject land and accordingly, cancelled the assignment. The petitioner preferred an Appeal before the 1st respondent, who in turn found that with reference to the rules for assignment of Government land to the landless poor, the petitioner must establish the same. The rules of assignment had not been followed by the 4th respondent at the time of assigning the land in favour of the petitioner. The lands will be assigned to the eligible poor landless Scheduled Caste people by following the assignment rules and therefore, the assignment granted in favour of the petitioner by the 4th respondent was found to be irregular and not in consonance with the rules.

13. The findings of the 1st respondent reveals that the land in question is D.C is reserved for SC and ST. Thus, the sale by Tmt.Subbi / Puthiral to



one Tvl.Thangavel / Appal / Palani as well as to the writ petitioner / Tmt.Unnamalai are null and void as they were sold without verifying the community and obtaining permission from the competent authorities. The writ petitioner Unnamalai has no records to show that she was cultivating the land, except a few photos. She has no tax receipts or any other records. Thus, there is no clear proof that the petitioner was cultivating and putting the land to use. In view of the said factum, the Appellate Authority confirmed the order passed by the District Revenue Officer in proceedings dated 12.08.2016.

14. This Court is of the considered opinion that the assignment of Government land to the poor landless Scheduled Caste people are granted for their welfare and therefore, assignment is to be made scrupulously in accordance with the rules contemplated. In the present case, the original assignee of the year 1902 subsequently sold the property without even verifying the community of the purchaser and without even obtaining proper permission from the competent authorities. The petitioner also has not produced any records to show that she has been cultivating the land except few photographs. Solely on the basis of photographs, this Court also cannot



form an opinion that the petitioner is in use of the land assigned in her favour.

The assignment was cancelled mainly on the ground that the rules of the assignment has been violated. This being the facts and circumstances established, this Court do not find any infirmity in respect of the order impugned passed by the respondents.

15. Accordingly, the order passed by the respondents 1 and 2 in proceedings No.G2/21725/2016 dated 31.05.2017 and in Rc.No.B4/14982/2012 dated 12.08.2016 are confirmed and consequently, this Writ Petition stands dismissed. Connected Miscellaneous Petition is closed. However, there shall be no order as to costs.

17.04.2023

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Index : Yes
Speaking order
Neutral Citation : Yes



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To

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