



W.P.No.26508 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2023

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.26508 of 2023
and
W.M.P.Nos.25913 and 25914 of 2023

Rukmini Kumaramangalam

...Petitioner

-Vs-

- 1.The Collector of Nilgiris,
Ootacamand.
- 2.The Revenue Divisional Officer,
Coonoor.
- 3.The Tahsildar,
Kotagiri Taluk.
- 4.P.Kuppan

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the proceedings in RCA No.A3/707/2015 dated 21.03.2016 issued by the 3rd respondent and quash the same.



W.P.No.26508 of 2023

For Petitioner : Mr.Abdul Saleem, Senior Counsel
for M/s.AAV Partners

For R1 to R3 : Mr.D.Ravichander
Special Government Pleader

ORDER

The writ on hand has been instituted questioning the order dated 21.03.2016 issued by the third respondent cancelling the assignment of Government land.

2. Preliminarily, the order passed by the Tahsildar, Kotagiri Taluk, Nilgiris District was issued in proceedings dated 21.03.2016 and the present writ petition has been instituted in the year 2023 after a lapse of 7 years.

3. However, the learned Senior Counsel appearing on behalf of the petitioner made a submission that the petitioner preferred an appeal and was waiting for the disposal of the appeal and thus, the delay occurred.

4. The petitioner claims to be the absolute owner of the property admeasuring an extent of 13.83 cents comprised in Old.R.S.No.578/10, New



W.P.No.26508 of 2023

R.S.No.645/9 at Jagathala Village, Kotagiri Taluk, Nilgiris District. The

petitioner acquired the subject property from her mother Mrs.P.Aravindadevi, vide gift settlement deed dated 04.02.2010 registered as Document No.177 of 2010 in the Sub Registrar Office, Coonoor. Originally, the subject property admeasuring a total extent of 1 acre comprised in Old Survey No.578/10 of Jagathala Village situated at Ralliah Dam Road, Bettatti Village, Nilgiris District belonged to one Kuppan son of Ponnan, the fourth respondent herein. The said Kuppan was assigned with the Government land by the proceedings of the District Collector, Nilgiris District, dated 09.08.1978. It was a conditional assignment of a Government land. One of the conditions stipulated is not to alienate the land for a period of 10 years. However, the fourth respondent executed a power of attorney on 07.10.1986 appointing one C.O.Subramani as Power Agent to sell the said 1 acre of land in S.No.578/10 to any intending buyer and to do all other acts, deeds, things, etc., After expiry of the period of 10 years from the date of assignment, the Power Agent executed a sale deed on 03.10.1988 in favour of one C.O.Ramaswamy. The said Ramaswamy executed a sale deed with others conveying various properties to one Mr.Rajan R.Srinivasan by virtue



W.P.No.26508 of 2023

of a sale deed dated 11.12.1997. The said Mr.Rajan R.Srinivasan conveyed an extent of 27 cents out of 1 acre in S.No.578/10, in favour of Mrs.P.Aravinda Devi, vide sale deed dated 13.10.1999 registered as Document No.1828 of 1999. The revenue records were mutated in favour of Mrs.P.Aravinda Devi. Subsequently, Mrs.P.Aravinda Devi, who is the mother of the petitioner, out of love and affection, settled the subject property in favour of the writ petitioner.

5. The learned Senior Counsel appearing on behalf of the writ petitioner mainly contended that the impugned order was passed by the Magistrate/Tahsildar, Kotagiri, without scrutinizing the revenue records and the sale deed executed by the original assignee on expiry of the conditional period of 10 years. There is no impediment for the original assignee to alienate the property beyond the period of 3 years and thus, the order impugned is not in consonance with the conditions stipulated in the assignment order. The learned Senior Counsel made a submission that the original assignee, who cultivated the Government land on expiry of 10 years, had alienated the property and thus, there is no infirmity. Clause 3 of the



W.P.No.26508 of 2023

assignment condition is inapplicable as far as the petitioner is concerned. In respect of an Indian Citizen, the assigned land can be alienated without the permission of the Government. Thus, the impugned order is to be set aside.

6. The learned Special Government Pleader appearing for the respondents 1 to 3 raised an objection by stating that the conditional assignment of Government land to an extent of 1 Acre was made in favour of one Kuppan, through an assignment order dated 09.08.1978 by the District Collector. As per the condition, the assignee himself has to cultivate the land to lead his life. The original assignee Kuppan, in violation of condition No.4, executed a power of attorney in favour of one C.O.Subramani on 07.10.1986 within a period of 10 years from the date of assignment. When the original assignee intended to alienate the property and executed a power of attorney to sell the property to a potential buyer, the assignee had violated the condition and thus, execution of a sale deed subsequently would not be a ground to sustain the assignment order.

7. As per condition No.23 of the assignment order, if the land is



W.P.No.26508 of 2023

alienated or is attached and sold by the legal process, it shall be liable to resumption by the Collector or by any officer authorized by him, without payment of compensation whatsoever. Condition No.21 denotes that the lands should be cultivated by the assignee or the members of the family or with hired labour or both.

8. All the conditions stipulated in the assignment order are to be read holistically to understand the purpose and object for which such lands are assigned in favour of landless poor people by the Government. The Government lands are to be utilised in a potential manner by developing cultivation. Instead of keeping the Government land barren, the Government framed a scheme for assignment of such lands to develop cultivation and such assignments are made by imposing certain conditions.

9. Revenue Standing Order 15(3) enumerates persons eligible for assignment. Accordingly, 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



W.P.No.26508 of 2023

patta. Therefore, the very purpose and object of assignment of land is to ensure that the poor landless persons livelihood are protected. This exactly is the reason why the Government imposed condition No.1 in the assignment order, that the assignment is liable to cancellation if it is found that it was grossly inequitable. If the original assignee subsequently purchased other lands or his family members became ineligible to hold the Government assigned lands, the Government is empowered to cancel the assignment on the ground of inequitability. It is not as if the Government lands once assigned should be on permanent basis and if such a policy is adopted, it will lead to unconstitutionally offending the equality clause enunciated under the Constitution of India.

10. The social justice and the equality clause enunciated under the Constitution require that the Government lands assigned are reassigned for the benefit of other poor landless people in order to achieve the Constitutional goal of social justice. If assignments are made on permanent basis, rich will become richer and poor will remain only poor, which is not the Constitutional ethos or philosophy. Thus, the ground of inequitability of



W.P.No.26508 of 2023

an assignee is to be periodically assessed by the competent authorities by conducting enquiry in respect of the eligibility of the assignee with regard to the status, income etc. If the family, which does not require the Government lands assigned at free of cost, is giving up its right, then such assignments are to be cancelled and it is to be reassigned to other landless poor persons who all are longing and struggling to meet out their livelihood. Pro-active policy in this regard is the Constitutional requirement and perception. Therefore, periodical assessment of the eligibility of the assignee is to be undertaken by the competent revenue authorities and the District Collector, which is to be monitored by the Commissioner of Land Administration and the Government. The periodical assessment, being the Constitutional requirement of social justice, is to be extended to all citizens in an equal manner. The land which was alienated before completion of 10 years by executing the power of attorney can be interfered.

11. The very same original assignee Mr.P.Kuppan, who was assigned the Government land to an extent of one acre, had alienated the other portion of the property in favour of one Ms.Pooja Bhattm, who has filed



W.P.No.26508 of 2023

W.P.No.13861 of 2017 and this Court had dismissed the said writ petition

on 13.07.2023. In the said order, this Court has elaborately considered the entire facts and the facts in the said writ petition and the present writ petition are one and the same. This Court observed that the original assignee Mr.Kuppan was a poor landless person at the time of assignment and he belongs to Scheduled Caste community. The Government land was assigned to the landless poor Scheduled Caste Community people for the purpose of cultivation and a condition was imposed that the assignee or their family members should cultivate the Government assigned lands. In the event of alienation and subsequent use of the Government land by any other person, undoubtedly, it would defeat the very purpose and object of assignment and more so in the present case, the conditions imposed in the assignment order also have been violated.

12. By alienating the Government assigned lands to third parties who all are not falling under the Depressed Class community, it has undoubtedly created gross inequity and unconstitutionality. The alienation was made by executing the power of attorney to sell the property in favour of other



W.P.No.26508 of 2023

persons within a period of 10 years, which amounts to violation of the assignment conditions.

13. Beyond the violations of the assignment conditions, it is seen that Nilgiris District is a hilly area wherein 45% of the area has been covered by forest. Land is as scarce and the district administration require lands for public purposes. With the limited availability of land, the Nilgiris District administration has to provide public infrastructure for the benefit of the public at large. In the event of assigning larger extent of Government land in favour of few individuals, the same would create inequality and would result in compromising public interest.

14. The District Collector, Nilgiris District, in this regard, is directed to re-visit/review the assignments of Government lands made in favour of the individuals in entire Nilgiris District and ensure all appropriate actions to protect the public interest and eliminate the inequality, if any identified. Such an exercise is directed to be done by the District Collector, Nilgiris District, within a period of 3 months from the date of receipt of a copy of



W.P.No.26508 of 2023

this order. In the event of any inequality or violation of assignment conditions or if the Government lands are required for public purposes, then necessary steps are to be taken to resume the lands by following the procedures as contemplated.

15. In view of the facts and circumstances of the present case, the petitioner has not established any acceptable ground for the purpose of considering the relief as sought for in this writ petition. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

12.09.2023

Index:Yes
Speaking order
Neutral Citation:Yes

pal/hvk



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W.P.No.26508 of 2023

S.M.SUBRAMANIAM, J.

pal/hvk

To

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W.P.No.26508 of 2023

12.09.2023