



S.A.(MD).No.1159 of 2006

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

S.A.(MD).No.1159 of 2006

and

M.P.No.1 of 2006

1.The President,
Mangudi Panchayat,
Mangudi Village,
Poovatha Kudi Post,
Aranthangi Taluk,
Pudukkottai District.

2.M.Ananthan

3.Duraisamy

4.Sundararajan

5.Karuppiah

... Appellants

Vs

1.R.Krishnasamy

2.Veera Perumal

3.Ganesan

4.Gnanasekaran

5.Rathinam

6.Subbiah

...Respondents

Prayer: Second Appeal filed under Section 100 of Civil Procedure Code against the judgment and decree dated 30.01.2004 made in A.S.No.76 of



S.A.(MD).No.1159 of 2006

2003 on the file of the Principal District Judge, Pudukottai reversing the judgment and decree dated 31.03.2003 made in O.S.No.262 of 1998 on the file of the District Munsif Court, Aranthangi.

For Appellants : Mrs.A.L.Ganthimathi
Senior Counsel
for Mr.L.Palanimuthu

For R1 : Mr.V.K.Vijayaraghavan

For R2 to R6 : Mrs.V.Sundari

JUDGMENT

The second appeal has been instituted against the judgment and decree passed in A.S.No.76 of 2003 dated 30.01.2004 by the learned Principal District Judge, Pudukottai.

2.The suit in O.S.No.262 of 1998 was instituted by one Mr.R.Krishnasamy against the appellant Mangudi Village Panchayat and nine other persons for declaration and for permanent injunction. The suit was dismissed by the District Munsif Court, Aranthangi on 31.03.2003. The plaintiffs instituted an appeal suit in A.S.No.76 of 2003 and the appeal



S.A.(MD).No.1159 of 2006

suit was allowed in favour of the plaintiffs and thus, the defendants 1, 2, 4, 5 and 7 were constrained to file the present second appeal before this Court.

3.It is not in dispute that with reference to the finding made by both the Trial Court and the First Appellate Court that the suit land was assigned for the benefit of depressed class people for cultivation. The original assignees had violated the assignment conditions and therefore, the District Revenue Officer cancelled the assignment made in favour of the assignees. The revision was filed before the Commissioner of Land Administration, who in turn set aside the order passed by the District Revenue Officer.

4.The learned senior counsel appearing on behalf of the appellants mainly contended that the vital issues considered by the District Revenue Officer for cancelling the assignment had not been considered either by the Commissioner or by the First Appellate Court in the appeal suit. The appeal suit was decreed mainly on the basis of the order passed by the Commissioner of Land Administration in proceedings dated 21.05.2003. Since the said order has been relied upon and in the order, there is no



S.A.(MD).No.1159 of 2006

finding regarding the violation of assignment conditions, the learned senior counsel contended that the second appeal is to be considered.

5.The questions of law framed at the time of admission of the second appeal are as follows:

1. Whether the learned Principal District Judge is correct in reversing the well considered findings of the trial Court without any reason?
2. Whether the learned Principal District Judge is correct in not considering the issue No.2 with regard to the identity of the vendors of the plaintiff and the persons in whose favour the assignments were granted?

6.As far as the second question of law framed by this Court is concerned, the identity of the vendors of the plaintiffs is of paramount importance since the vendors of the plaintiffs were the original assignees of the Government land. The District Revenue Officer by conducting an enquiry made a finding that the assignees of the Government land had violated the conditions stipulated in the assignment order and consequently cancelled the assignment granted in their favour.



S.A.(MD).No.1159 of 2006

WEB COURT

7. Government assigned lands cannot be transferred in favour of ineligible persons or to the persons of other communities. In the present case, admittedly the assigned lands were transferred in faovur of the ineligible persons and more so, the assignees are not empowered to transfer such assigned lands which was given for the livelihood of the depressed class community people. Therefore, the First Appellate Court has committed an error in passing a decree merely based on the findings made by the Commissioner of Land Administration in his order dated 21.05.2003. The Commissioner of Land Administration has failed to consider the vital and relevant grounds and the conditions of assignment imposed by the Government with reference to the Revenue Standing Orders.

8. The Government lands are assigned based on the Revenue Standing Orders and the conditions imposed in the order are binding on the assignees. Any violation of conditions would disentitle them to continue the assignment and in such circumstances, the Government is empowered to cancel the assignment, resume the land and to re-assign the same for eligible beneficiaries or utilize the land for public purposes. This being the guiding



S.A.(MD).No.1159 of 2006

principles contemplated under the Revenue Standing Orders, the District Revenue Officer has rightly cancelled the assignment on the ground that the original assignees had violated the conditions imposed in the assignment order. The said factum had not been considered either by the Commissioner of Land Administration or by the First Appellate Court in the judgment and decree passed in A.S.No.76 of 2003.

9.The first appellant herein has filed a writ petition in W.P.No.30206 of 2003 challenging the order passed by the Commissioner of Land Administration in proceedings dated 21.05.2003. This Court considered the writ petition and set aside the order passed by the Commissioner of Land Administration dated 21.05.2003 and remanded the matter back for fresh consideration. In view of the fact that the writ petition filed by Mangudi Village Panchayat in W.P.No.30206 of 2003 has been allowed by this Court, the second appeal is to be allowed consequently since the appeal suit was decided based on the order passed by the Commissioner of Land Administration in proceedings dated 21.05.2003.



S.A.(MD).No.1159 of 2006

10.In view of the facts and circumstances, the questions of law raised in the present second appeal are answered in favour of the appellants and consequently, the judgment and decree dated 30.01.2004 passed in A.S.No.76 of 2003 on the file of the Principal District Court, Pudukottai reversing the judgment dated 31.03.2003 passed in O.S.No.262 of 1998 on the file of the District Munsif Court, Aranthangi is set aside.

11.Accordingly, the second appeal stands allowed. Consequently, connected miscellaneous petition is closed.

20.09.2023

cse

Index:Yes/No

Speaking order/Non-speaking order

Neutral Citation:Yes/No



WEB COPY



S.A.(MD).No.1159 of 2006

S.M.SUBRAMANIAM, J.

cse

To

- 1.The Principal District Judge,
Pudukottai.
- 2.The District Munsif Court,
Aranthangi.

S.A(MD).No.1159 of 2006

20.09.2023