



W.P.No.3229 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 07.09.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.3229 of 2019
and W.M.P.No.3484 of 2019

1.Kaliamoorthy
2.Chengi Lakshmi

...Petitioners

Vs.

- 1.The Additional Chief Secretary and
Commissioner of Land Administration,
Chepauk, Chennai – 600 005.
- 2.The Special Commissioner for
Land Administration,
Ezhilagam, Chepauk,
Chennai – 600 005.
- 3.Additional Collector,
Collector Office,
Cuddalore.
- 4.The Assistant Collector/Sub Collector,
Collector Office,
Cuddalore.
- 5.Tahsildar,
Panruti,
Cuddalore District.



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6.V.Harikesavan

...Respondents

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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records of the first respondent relating to its order dated 02.11.2017 passed against the petitioners and quash the same and confirm the proceedings in DKT.No.14/1401 dated 27.12.1991 of the 5th respondent and consequently evict the encroachment of the 6th respondent as held by the 2nd respondent in its proceedings No.D.Dis(G1) 5966/97 dated 10.02.2000 pending disposal of the writ petition.

For Petitioners	:	Ms.Pavithra Sundararajan for Mr.K.Moorthy
For R1 to R5	:	Mr.C.Jayaprakash Government Advocate
For R6	:	Mr.P.Rajavel

ORDER

The writ on hand has been instituted questioning the validity of the order passed by the first respondent in proceeding dated 02.11.2017 confirming the order passed by the Sub-Collector, Cuddalore in proceeding dated 23.12.1993.



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2.It is not in dispute that the Government land was assigned in the names of the mother of the first petitioner and the second petitioner and conditions are imposed. The assignment condition reveals that the assignees have to cultivate the land themselves and right of alienation was not granted. In respect of the conditions, the Assistant Tahsildar, Panruti conducted field inspection and that apart enquired the status of the land with the villagers. The Assistant Tahsildar submitted a report stating that the assignees are living 15 kms away from the village and they are not able to cultivate the land as the lands are under the encroachment of one Mr.Harikesavan/6th respondent for long time. The 6th respondent was not an assignee and he was in unlawful occupation of the said land. Based on the report of the Assistant Tahsildar, the Sub-Collector, Cuddalore passed an order in proceeding dated 23.12.1993 stating that the Tahsildar, Panruti has recommended for cancellation of assignment patta issued in proceeding dated 27.12.1991 and more so, the subject lands were under the possession and enjoyment of the 6th respondent. The assignees were not residing in the said Village and accepting the report of the Tahsildar, the Sub-Collector



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cancelled the assignment granted in favour of the writ petitioners.

Consequently, the Tahsildar, Panruti was directed to carry out necessary changes in the Village and Taluk Accounts Registers. The petitioners preferred an appeal before the second respondent Commissioner of Land Administration, who in turn conducted an enquiry by affording opportunity to the petitioners. The contentions of the petitioners were considered. The 6th respondent appeared before the Commissioner of Land Administration along with his counsel on 12.10.2017 and placed his arguments. The statement of the revenue officials were also recorded. The Commissioner of Land Administration made a finding that it is seen from the D-form patta issued by the Tahsildar that there was a condition stipulated in Sl.No.13 stating that residential house should be constructed within six months from the date of assignment. Originally the assignment was made under the provisions of RSO-15 which is meant for allotment of land to conduct agricultural activities, whereas the above said condition which related to house site assignment covering under the provisions of RSO-21 was wrongly imposed. Thus, the original order itself was found to be defective in nature.



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3.Considering the error occurred while passing the original order and considering the report of the Tahsildar and the order of the Sub-Collector that the assignees are not residing in the Village and not cultivating the Government land, the Commissioner of Land Administration held that assignment made in favour of (Late) Malaiammal W/o.Ammavasai and Tmt.Chengilakshmi W/o.Kaliyamoorthy do not come under the provisions of RSO-15 and conditions of assignment have been violated by them by not taking possession of the assigned land and also by failing to bring the land into cultivation.

4.This Court do not find any incriminating evidence or documents to re-consider the findings made by the Commissioner of Land Administration. The petitioners have violated the conditions stipulated in the assignment and therefore, the petitioners are not entitled for the relief as such sought for in the present writ petition. The officials respondents are directed to resume the land within a period of four weeks from the date of receipt of a copy of this order.



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5. Accordingly, the writ petition stands dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

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Index: Yes/No

Neutral Citation: Yes/No

Speaking order/Non-speaking order



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S.M.SUBRAMANIAM, J.

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