



W.P.(MD)No.7232 of 2011

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :05.01.2023

CORAM

THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

W.P.(MD)No.7232 of 2011

and

M.P.(MD)No.2 of 2011

1.D.sundari

2.A.Pichchai

... Petitioners

Vs.

1.The Land Commissioner,
Chepauk, Chennai.

2.The Assistant Commissioner,
(Land Reforms)
165.D, Bharathi Ula Street,
Race Course Colony,
Near Thamaraitthotti,
Madurai-20

3.A.Andiappan

4.K.Karuppiah

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records relating to the proceedings of the 1st respondent in D1/R.P.No.5/2007 (L.Ref) dated 17.03.2011 and quash the same.

For Petitioner :Mr.J.Anandkumar
For Respondents :Ms.D.Farjana Ghowshia
Special Government Pleader for R1 & R2
:No appearance for R3 & R4

ORDER

This writ petition has been filed challenging the order of the 1st respondent, whereby the assignment granted to the petitioner under the provisions of the Land Reforms Act had been set aside.

2. The learned counsel for the petitioner would submit that an extent of 101.33 acres of land was declared as surplus in Kallankudi Village, Karaikudi Taluk, Sivagangai District from the holdings of Thiru C.T.Devaraj, as per the Notification under Section 18(1) of the Tamil Nadu Land Reforms [Fixation of Ceiling of Land] Act, 1961, out of the declared surplus lands, lands were originally assigned in favour of one Tvl.Andiappan and Karuppiyah. The said assignment was cancelled by the



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2nd respondent herein, by proceedings dated 25.09.1996. As against the cancellation, the aforesaid persons have filed a revision before the Land Commissioner/1st respondent herein. Pending the proceedings, the petitioner had been assigned lands in Survey No.153/1B and 153/1C and patta bearing Nos.858 and 869 had been issued in their favour. When the 1st respondent had taken the revision filed by the persons whose assignment has been cancelled, the 1st respondent, while rejecting their revision, *inter alia*, had also set aside the order of assignment granted in favour of the petitioners. According to the learned counsel for the petitioners, no notices had been issued by the 1st respondent to the petitioner before passing the impugned order. The order rejecting the claim of the 3rd and 4th respondents were challenged by them in W.P.(MD).No.12346 of 2011. The said writ petition was dismissed, against which, they had also preferred an intra Court appeal in W.A.(MD).No.991 of 2016 and the same also came to be dismissed on 14.02.2018.

3. The learned counsel for the petitioners would further submit that the 1st respondent had held that the order of assignment made to the



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petitioner had been made in a hurried manner, without properly following the procedures laid down under the Tamil Nadu Land Reforms [Fixation of Ceiling of Land] Act, 1961, to come to the conclusion that there are procedural irregularities in the order of assignment. According to the petitioners, pursuant to the proposal of assignment in favour of the petitioner, the petitioners were asked to remit the value of the land and pursuant to such demand, the petitioners have also paid the amount. Thereafter, the assignment order was issued by the 2nd respondent herein on 10.01.1997 and possession was handed over to the petitioners on 16.01.1997. Pursuant to the order of assignment, the petitioners have also approached the revenue authorities and pattas have been issued in their favour. Therefore, the reason assigned by the 1st respondent that the procedure laid down in the Tamil Nadu Land Reforms [Fixation of Ceiling of Land] Act, 1961, have not been followed, is wholly imaginary. Hence, he sought interference with the order passed by the 1st respondent, insofar as it relates to setting aside the order of assignment dated 28.12.1996, in favour of the petitioners.



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4. Countering his arguments, the learned Special Government Pleader would submit that the procedure as contemplated under the Tamil Nadu Land Reforms [Disposal of Surplus Land] Rules, 1965, has been completely overlooked by the grant of assignment made in favour of the petitioners. She would submit that no proper enquiry has been conducted by the 2nd respondent before granting the assignment and no notification of proposal of assignment has also been made. These two aspects are very crucial before grant of assignment of surplus lands. Hence, she would submit that there is infirmity in the order passed by the 1st respondent. Therefore, she would request this Court to dismiss this writ petition.

5. I have considered the rival submissions made on either side.

6. It is an admitted case that an order of assignment has been made in favour of the petitioners and the cancellation of assignment, as against the 3rd and 4th respondents, had become final, in view of the dismissal of the writ appeal. The impugned order in detail deals with the procedure of assignment in favour of the petitioners herein. The reasons that



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have been assigned by the 1st respondent are that even though they claimed to be a resident of Karaikudi Village, the Village Administrative Officer had given a statement that they are residing at Alagapuri Village. From the impugned order, it is seen that the Form D notice has been issued by the 2nd respondent herein on 16.12.1996 and they were sent to the respective offices for publication. The notices have been received by the Special Revenue Inspector on 16.12.1996 indicating that an enquiry will be held on 20.03.1996. The Special Tahsildar had made an enquiry on 20.12.1996. Based on the enquiry of the Special Tahsildar, the assignment order has been issued by the 2nd respondent. It is not clear on what basis a factual position has been arrived at that such notices has not been published in the respective offices. It is admitted that when any such notices in Form D has been sent by the 2nd respondent to the Revenue Offices, the same will have to be published in the notice board. There is no evidence, either in the order or in the counter to substantiate that the notices have not been published. Hence, in my view, the order impugned is without any basis and on wrong appreciation of the facts. Hence, the order impugned is liable to be interfered with and consequently liable to be set aside.



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7. In view of the above, the writ petition is allowed and the order passed by the 1st respondent in D1/R.P.No.5/2007 (L.Ref) dated 17.03.2011 is set aside. No costs. Consequently, connected miscellaneous petition is also closed.

05.01.2023

Index : Yes / No
Speaking Order/Non Speaking Order
sbn

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