



W.P. (MD).Nos.2459, 2464, 2465, 2466, 2469 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 01.12.2023

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD).Nos.2459, 2464, 2465, 2466, 2469 of 2020
and W.M.P(MD)Nos.2096 to 2103, 2105, 2107,
2108 and 2110 to 2113 of 2020

In W.P. (MD).Nos.2459, 2465, 2466, 2469 of 2020:

S.Siva Prakash

... Petitioner in W.P(MD)No.2459 of 2020

A.Kala

... Petitioner in W.P(MD)No.2465 of 2020

K.Palanivel

... Petitioner in W.P(MD)No.2466 of 2020

P.Harshavardhini

... Petitioner in W.P(MD)No.2469 of 2020

Vs

1. The State of Tamil Nadu,
Rep. by its Secretary,
Dept. of Revenue, Fort St.George, Chennai-09.

2. The Revenue Divisional Officer,
Kodaikanal, Dindigula District.

... Respondents in W.P. (MD).Nos.2459, 2465, 2466, 2469 of 2020



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In W.P(MD)No.2464 of 2020

P.Paranthagachzhan

... Petitioner in W.P(MD)No.2464 of 2020

Vs

1. The State of Tamil Nadu,
Rep. by its Secretary,
Dept. of Revenue, Fort St.George, Chennai-09.

2. The Revenue Divisional Officer,
Kodaikanal, Dindigula District.

3.V.Karupanan *

4.K.Ganesan *

5.H.Vasantha *

6.K.Gandhi *

7.K.Kavitha *

*(*R3 to R7 impleaded as per order of this Court in
WMP(MD)No.4947 of 2023, dated 01.12.2023)*

... Respondents in WP(MD)No.2464 of 2020

Common Prayer: Writ Petitions are filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling upon the records of the 2nd respondent pertaining to the order, dated 10.01.2020 passed in Na.Ka.No.1162/2017/A1 and quash the same.



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In all petitions:

For Petitioners : Mr.C.Mani Shankar
Senior Counsel

For Respondents : Mr.B.Saravanan (R1,R2)
Government Advocate

Mr.S.Vellaichamy (R3 to R7)
(In WP(MD)No.2464 of 2020)

COMMON ORDER

The issues involved in all these writ petitions are common and hence, they are taken up together, heard and disposed of through this common order.

2.The petitioners have challenged the impugned proceedings of the second respondent/Revenue Divisional Officer, Kodaikanal, dated 10.01.2020 cancelling the original assignment and the patta granted in favour of the petitioners.

3.The lands that are involved in the present case are S.Nos. 1340/16, 1340/19, 1340/37, 1340/60, 1340/39, 1340/44, 1340/47, 1340/55, 1340/17, 1340/20, 1340/21, 1340/26, 1340/29, 1340/31, 1340/32, 1340/33, 1340/40, 1340/41, 1340/42, 1340/46, 1340/48,



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1340/49, 1340/50, situated at Vilpatty Village, Kodaikanal Taluk,
Dindigul District.

4.The particulars of the purchase of the lands by the petitioners
are tabulated hereunder:

Sl. No	Writ Petition and Name of the petitioner	Sale deed and extent	Patta No.
1	W.P(MD)No.2459 of 2020 - S.Sivaprakash	18.01.2018 i.D.No.70/2018-0.09 Hect ii.D.No.71/2018-0.30 Hect iii.D.No.72/2018-0.71.0 Hect	9305
2	W.P(MD)No.2464 of 2020 – P.Paranthaga Chozhan	06.11.2017 i.D.No.1850/2010-0.23.48 Hect ii.D.No.1855/2017-0.23.0 Hect	9309
3	W.P(MD)No.2465 of 2020 – A.Kala	20.12.2017 i.D.No.2230/2017-0.35.0 Hect ii.D.No.2229/2017-0.93.0 Hect iii.D.No.2231/2017-0.35.0 Hect	9307
4	W.P(MD)No.2466 of 2020 – K.Palanivel	06.11.2017 i.D.No.1848/2017-0.17.0 Hect ii.D.No.1853/2017-0.53.0 Hect iii.D.No.1854/2017-1.03.0 Hect iv.D.No.1856/2017-0.11.0 Hect	9306
5	W.P(MD)No.2469 of 2020 – Harshavardhini	06.11.2017 i.D.No.1849/2017-0.31.0 Hect ii.D.No.1852/2017-0.20.24 Hect	9308



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5.The grievance expressed by the petitioners is that the second respondent, viz., the Revenue Divisional Officer has proceeded to cancel the original assignment as well as the patta issued in favour of the petitioners, without affording any opportunity and hence, primarily, the petitioners have taken the ground of violation of principles of natural justice and have assailed the impugned proceedings of the second respondent, dated 10.01.2020.

6.The impleading petitioners in W.P(MD)No.2464 of 2020 are the assignees for S.No.1340/24. The impleading petitioners have also taken a stand that the assignment was cancelled without affording opportunity. The impleading petitioners are supporting the case of the petitioners.

7.The second respondent has filed a counter affidavit in all the writ petitions. The relevant portions in the counter affidavit filed by the second respondent is extracted hereunder:



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4. I submit that during the course of Jamabhanthi event in the year 2019 a representation was received from the agriculturists at Vilpatty stating that lot of conditional assigned lands in S.No.1340 of Vilpatty village were sold out by violating the condition. They made a request to cancel the assignment and then assign the same to the agriculturalist in the Vilpatty village of Kodaikanal Taluk. Based upon the above representation the original assignment filed were perused.

5. I submit that the property in question comprised in S.No. 1340/24, 1340/39, 1340/44, 1340/47, 1340/55, were originally a government land was made assigned with conditions by the Competent authority to five persons namely 1). Palaniyammal, 2).Krishnammal, 3).Palaniammal, 4).Parvathi and 5).P.P.Karuppanan respectively by the Special Tahsildar (Assignment) Kodaikanal vide DKT Nos. 602/92, 580/92, 596/92, 548/92 and 259/93 in accordance with revenue code (Revenue standing order -Rule 15) on 14.12.1983. Further the said land was assigned by the special Tahsildar (Assignment) on the basis that all the assignees are landless poor while the time of assignment. The special Tahsildar (assignment) has clearly made his remarks in the proposals of assignment of the land that all the above-mentioned assignees are landless poor and are eligible for conditional assignment.

6. I further submit that under the Revenue Standing Order 15(3)(3) clearly states the who are eligible for assignment only 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 the assignment, imposed in the "D" form patta. Co-operatives societies consisting



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entirely of landless and poor persons who are likely to engage themselves in direct cultivation, shall also be eligible for cost free cultivation of both valuable and non-valuable lands provided lands are available in compact blocks.

7. I further submit that the proceedings of assignment comprised of "D"- Form stating the conditions 1 to 12 and special conditions 1 to 5 subject to which the assignment was made. All the five original assignees sold out their lands assigned to them to various different persons and then finally the said land was purchased by the petitioner through sale deed dated 18.01.2018 and mutated patta in favour of the Petitioner.

8. I further submit that the original assignee had violated the special condition No. 5 mentioned in the 'D' Form stating that "The Assigned lands may be sold or alienated after the period of Ten years with the prior permission of the authority which made the assignment. Permission sought for may be granted, only if the sale is to one of the categories of person eligible for assignment of Government waste lands for cultivation purpose". Further the Revenue standing order 15 II (12) (3) the clearly states that as special condition, (3) The Assigned land shall not be alienated for a period of Ten years from the date of Assignment. In the event of the Assignee wishing to dispose of the land after the above period he should get prior permission of either the Tahsildar or The Revenue Divisional Officer, who should give permission only if the sale is one of the categories eligible for Assignment of Government waste lands for cultivation purpose and the above mentioned draft amendment was approved by the Government in [G.O.Ms.No. 2485](#), dated 09.11.1979.



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9. I further submit that the very purpose of the special condition No.5 mentioned in the D form "The Assigned lands may be sold or alienated after the period of Ten years with the prior permission of the authority which made the assignment. Permission sought for may be granted, only if the sale is to one of the categories of person eligible for assignment of Government waste lands for cultivation purpose" is to ensure that these government lands given by assignment are used only by landless and poor who are likely to do direct cultivation.

10. I humbly submit that petitioner himself has clearly in his one affidavit stated that he has purchased multiple conditional assignment lands which itself is a clear evidence beyond any doubts of violation of special condition No.5 Further the Commissioner of Land Administration through his circular dated 27.03.2008 in No. 2899/2006/G1 issued instructions to take appropriate action to cancel the such Assignments after proper enquiry along with Revenue Accounts. Based on the representation made by the agriculturists of Vilpatty village on 04.06.2019 enquiry conducted and found the violation along with Revenue Records. Therefore the cancellation Proceedings were initiated where violation of conditions was found out in respect of the land sold out without prior permission from the Authorities concerned.

11. I further submit a verification of Revenue Accounts (i.e) Chitta, 'A' Register of Vilpatty village, the property in question comprised in S.Nos. 1340/39, 1340/44, 1340/47, 1340/55 assigned to four Assignees stated in supra were sold out without getting prior permission from the competent authorities concerned.



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12. I further submit that for one field S.No. 1340/24, there was a civil dispute between the original assignee i.e. Palaniammal vs 7 respondents and District Civil Court, Kodaikanal has passed orders in case No.272/2013, dated 22-04-2015 in the favour of original assignee. Subsequently the original assignee has filed a patta appeal case and it is currently pending before Revenue Divisional Officer, Kodaikanal under Na. Ka.No.1744/2018/A2. Hence, no cancellation order has been passed for the survey No. 1340/24.”

8.The main ground that was urged by the learned Senior Counsel appearing on behalf of the petitioner is that the second respondent had proceeded in a very hasty manner without affording any opportunity to the petitioners to put forth their defence. Therefore, it was contended that the impugned order passed by the second respondent, dated 10.01.2020 is vitiated for violation of principles of natural justice. The learned Senior Counsel submitted that the ultimate decision that has been rendered by the second respondent has civil consequences and therefore, it is incumbent on the part of the second respondent, to have afforded sufficient opportunity to the original assignees and to the petitioners. In the absence of the same, the impugned order is liable to be interfered by this Court on this ground alone.



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9.The learned counsel for the impleading petitioners in W.P(MD)No.2464 of 2020 reiterated the submission made by the learned Senior Counsel for the petitioners and submitted that the impleading petitioners, who are the assignees for the land in S.No.1340/24 were not put on notice and the assignment has been cancelled behind the back of the assignees. Therefore, the learned counsel for the impleading petitioners sought for interference with the impugned proceedings of the second respondent, dated 10.01.2020.

10.Per contra, the learned Government Advocate appearing on behalf of the respondents submitted that this is a clear case, where the assignee has violated Revenue Standing Order 15, which clearly provides that the assignee cannot alienate or sell the assigned lands even after 10 years without prior permission from the Authority, which made the assignment and even if permission is sought for, it will be granted only where the sale is made to one of the categories of persons, who are eligible for assignment of Government waste lands for cultivation purpose. The learned Government Advocate submitted that in the instant



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case, original assignment was made in the year 1993 for the landless poor and the assignees have illegally sold the lands to the members of the same family for consideration and the same was done without getting prior permission from the Authorities and it is in violation of Revenue Standing Order 15, which entitles the Authorities to cancel the assignment. The learned Government Advocate further submitted that the petitioners do not have the right or title in the subject properties, since the sale made in their favour is null and void and *non-est* in law. Therefore, the petitioners cannot question the cancellation of assignment and the consequent cancellation of patta granted in favour of the petitioners. It was further submitted that opportunity was given to the petitioners to attend the enquiry and only thereafter, the impugned order was passed and that no ground has been made out to interfere with the impugned proceedings of the second respondent. Therefore, the learned Government Advocate sought for dismissal of this writ petition.

11.The short issue that arises for consideration in these writ petitions is as to whether the impugned proceedings of the second respondent, dated 10.01.2020 is liable to be interfered with by this Court.



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12. On carefully going through the impugned proceedings of the second respondent, it is seen that the assignment that was granted in favour of the original assignees for the subject lands in the year 1993, has been cancelled on the ground that the assignees have alienated the lands in violation of Revenue Standing Order 15. Consequently, the pattas that were issued in favour of the petitioners were also cancelled.

13. There is absolutely no indication in the impugned proceedings of the second respondent, dated 10.01.2020 that the assignees were put on notice. The petitioners were only the subsequent purchasers and they had sought for some time to gather particulars from the original assignees and within a short time, they were not able to gather the materials and as a result, the impugned order was passed by the second respondent. While conducting this exercise, it is not enough to put the petitioners alone on notice, since they are only the subsequent purchasers. The original assignees should have been put on notice in order to get the assignment details and the basis on which the subject lands were sold.



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14.The impugned proceedings of the second respondent, dated 10.01.2020 has civil consequences, since the lands are resumed and are reclassified as Government lands by cancelling the original assignments and the patta that was issued in favour of the petitioners. Therefore, it is incumbent on the part of the second respondent to have afforded sufficient opportunity to all the interested persons before cancelling the original assignment as well as the pattas, that were issued in favour of the petitioners. In the absence of the same, the impugned proceedings are liable to be interfered with by this Court, on the ground of violation of principles of natural justice. This Court finds that the original assignees and the petitioners were not provided with sufficient opportunity before the impugned proceedings were issued by the second respondent.

15.In the light of the above discussions, the impugned proceedings of the second respondent in Na.Ka.No.1162/2017/A1, dated 10.01.2020 is hereby quashed and the matter is remanded back to the file of the second respondent. The second respondent is directed to issue notice to the original assignees and if the original assignees have died to



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the legal heirs of the original assignee as well as to the petitioners, who are the subsequent purchasers and afford them opportunity and thereafter, pass orders strictly in accordance with law. This process shall be completed by the second respondent within a period of six months from the date of receipt of copy of this order. Till the final orders are passed by the second respondent, no alienation of the subject lands or transfer of patta for the subject lands shall be entertained by the concerned Authorities.

16.In the result, all these writ petitions are allowed in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

01.12.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
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To

1. The Secretary,
State of Tamil Nadu,
Dept. of Revenue, Fort St.George, Chennai-09.

2. The Revenue Divisional Officer,
Kodaikanal, Dindigula District.



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N.ANAND VENKATESH, J.

PNM

**COMMON ORDER IN
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and W.M.P(MD)Nos.2096 to 2103, 2105, 2107,
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