



W.P.(MD)No.8325 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 01.12.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.8325 of 2020 &
W.M.P.(MD)Nos.7721 & 7722 of 2020

Panchavarnam

....Petitioner

Vs.

- 1.The Additional Chief Secretary /
Commissioner of Land Reforms,
Commissionerate of Land Reforms,
Ezhilagam, Chepauk,
Chennai - 600 005.
- 2.The District Collector,
O/o. the District Collector,
Sivagangai.
- 3.The Assistant Commissioner,
Tamil Nadu Land Reforms and Land Administration,
Madurai.
- 4.The Revenue Divisional Officer,
O/o.Revenue Divisional Office,
Devakottai,
Sivagangai District.
- 5.The Tahsildar,
Karaikudi Taluk Office,
Karaikudi,
Sivagangai District.



W.P.(MD)No.8325 of 2020

6.Muthu Krishnan
7.Saravanan

... Respondents

WEB COPY

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking for a writ of certiorarified mandamus calling for records pertaining to the impugned order in MR.1/S/127/Thirup/Aa4 dated 23.05.2011 passed by the respondent No.3 and quash the same as illegal, consequently direct the respondent Nos.1 and 3 to recalculate the assignment as per due process of law.

For Petitioner : Mr.K.Seemaraj

For Respondents : Mr.K.S.Selvaganesan
Additional Government Pleader
for R1 to R5

Mr.B.Muruganandam for R7

No appearance for R6

ORDER

This writ petition has been filed challenging the impugned proceedings of the third respondent dated 23.05.2011, whereby, the assignment that was granted with respect to the lands was cancelled and a direction was given to effect necessary changes in the revenue records.



2. The case of the petitioner is that she had purchased the subject properties in S.Nos.52/16 and 58/10 situated at Kurunthampatti Village, Karaikudi Taluk through registered sale deeds dated 11.07.2011 and 08.04.2013 and was in possession and enjoyment of the same. Thereafter, the petitioner had executed a settlement deed in favour of her son through registered settlement deed dated 14.11.2018.

3. The further case of the petitioner is that attempts were made by the surveyor and other officials to take over the possession of the property and hence, the petitioner made a representation in this regard to the first respondent. The grievance of the petitioner is that the third respondent through impugned proceedings dated 23.05.2011 cancelled the assignment and thereby, the right and title of the petitioner over the subject lands was affected. Aggrieved by the same, the present writ petition has been filed before this Court.

4. When the matter came up for hearing, this Court questioned the *locus standi* of the petitioner to challenge the impugned proceedings of the third respondent dated 23.05.2011 since the



W.P.(MD)No.8325 of 2020

petitioner has become the owner of the subject lands only on 11.07.2011 and 08.04.2013 respectively which is much after the order was passed by the third respondent.

5. The learned Additional Government Pleader appearing on behalf of the official respondents submitted that much water has flown under the bridge and that subsequent proceedings that have taken place in this case, virtually makes this writ petition infructuous.

6. It was brought to the notice of this Court that the very same impugned proceedings of the third respondent dated 23.05.2011 was put to challenge by the original owner of the property and the writ petition in W.P.(MD)Nos.11565 & 20678 of 2013 were heard by this Court and orders were passed on 08.04.2014 to the following effect.

"9. Nearly 20 years had elapsed from the date of the assignments. Hence, the assignees became the absolute owner of the property. Under such circumstances, further action cannot be initiated, based on the report



WEB COPY



W.P.(MD)No.8325 of 2020

of the second respondent to the first respondent dated 08.07.2013, which is liable to be quashed. It is also the submission of the learned counsel appearing on behalf of the petitioner that even before passing the final order, the transactions have been completed. Further, in the proceedings dated 23.05.2011, the second respondent had himself subdivided the property in S.No.52/2 into S.No. 52/3 to 17 and allotted to the assignees. At this time, the second respondent inspected the property in question and sent a report to the first respondent by pointing out the irregularities by the predecessor in-office and sought for further initiation.

10. At this point of time, both the counsels agreed that if a direction is given to the first respondent to pass orders, without being influenced on the report sent by the second respondent, dated 08.07.2013, after giving an opportunity of hearing to both parties, that would suffice.

11. In view of the submissions, this Court constrains to pass an order:-



The first respondent is directed to pass orders without being influenced by report dated 08.07.2013 submitted by the second respondent, by affording an opportunity of hearing to both the parties and also based on the materials available on record and pass a detailed speaking order, within a period of twelve weeks from the date of receipt of a copy of this order."

7. Pursuant to the above order, the Sub Collector, Devakottai conducted a detailed enquiry and passed order through proceedings dated 02.12.2016. The relevant portions in the order are extracted hereunder.

"1) It is the prayer of the petitioner that the assignment of lands vide Assistant Commissioner (Land Reforms) MRI/S-127/TPR/B4 to 1) C.Raju 2) V.Chinnathambi 3) V.Arumugam 4) S.Subbaiah 5) P. Karuppaiah 6) A.Ramachandhiran on 23.05.2011 is erroneous. Petitioner has submitted that while the surplus lands were declared on the lands



WEB COPY



W.P.(MD)No.8325 of 2020

of Shanmugam Chettiar in S.No.52/2 the assignment has happened in the share of the property 52/2; belonging to him vide partition deed 520/1960. After considering the arguments of the petitioner, and after perusing the partition deed dated 01.04.1960; it is decided that the petitioner has not been able to prove that the four boundaries of assigned lands in Assignment order 2011 vide Assistant Commissioner (Land Reforms), Madurai, vide MRI/S-127/TPR/B4 dated: 23.05.2011 and the four boundaries of the land in Schedule 2 of partition deed dated 01.04.1960 are the same and hence he has failed to prove the assignment has happened in the property entitled to him. The onus of proof is on the petitioner and hence he was unable to do the same, the prayer is dismissed.

2) It has come to the notice of the Authorized Officer, that the assigned lands vide MRI/S-127/TPR/B4 has been alienated by the assignees during the conditional period. In fact, alienation was happened even before the matter attained a finality. It shows clearly



WEB COPY



W.P.(MD)No.8325 of 2020

contempt for the rules, procedure, and statute.

This is a gross violation on the part of the respondent and cannot be viewed lightly. This shows pure lack of regard for the procedure of law and clear violation of rules and procedure. The respondent has violated the conditions under Tamil Nadu Land Reforms Disposal of Surplus Land Rules 1965. Hence after carefully perusing the documents provided by both parties and considering the argument made by the learned counsels, as per the power entrusted by rule 9(2) of Tamil Nadu Land Reforms (Fixation of Surplus Land) Rules, the assignment vide Assistant Commissioner (Land Reforms) LR No.MRI/S-127/TPR/B4 dated: 23.05.2011 has been declared to be cancelled, and the lands are declared to be resumed to the Government.

3) The above lands will be resumed to Government and the Tahsildar, Karaikudi is hereby ordered to make effect the changes in Taluk and Village records and change the classification of the above land to surplus



W.P.(MD)No.8325 of 2020

land and send the same to this office within 7 days after the receipt of this order.

4) Tahsildar, Karaikudi is here by ordered to intimate the above changes in Village and Taluk records to Sub Register Office, concerned and to intimate the same to this office within 7 days after the receipt of this order.

5) Those who are aggrieved by this order may appeal to District Revenue Officer, Sivaganga within 30 days after the receipt of this order as per rule 9(2)(b) of Tamil Nadu Land Reforms (Fixation of ceiling on Land) Act 1961."

8. It is also brought to the notice of this Court that the original owner has filed a further appeal before the District Revenue Officer, Sivagangai and it is not known about the stage of the proceedings.

9. In the light of the above developments, it is too late in the day for the petitioner to challenge the proceedings of the third respondent dated 23.05.2011 once again before this Court. Therefore, it is not



W.P.(MD)No.8325 of 2020

necessary to once again go into the validity / legality or otherwise of the proceedings of the third respondent dated 23.05.2011.

10. If the original owner is already agitating the matter before the concerned Authority namely District Revenue Officer, Sivagangai, it will be left open to the petitioner to also join the original owner and workout her remedy. Except giving this clarification, no further orders can be passed in this writ petition.

11. The writ petition is disposed of in the above terms. No costs. Consequently, the connected Miscellaneous Petitions are closed.

01.12.2023

NCC : Yes/No
Index : Yes/No
Speaking / Non-speaking order

mbi



W.P.(MD)No.8325 of 2020

To

WEB COPY

- 1.The Additional Chief Secretary /
Commissioner of Land Reforms,
Commissionerate of Land Reforms,
Ezhilagam, Chepauk,
Chennai - 600 005.
- 2.The District Collector,
O/o. the District Collector,
Sivagangai.
- 3.The Assistant Commissioner,
Tamil Nadu Land Reforms and Land Administration,
Madurai.
- 4.The Revenue Divisional Officer,
O/o.Revenue Divisional Office,
Devakottai,
Sivagangai District.
- 5.The Tahsildar,
Karaikudi Taluk Office,
Karaikudi,
Sivagangai District.



WEB COPY



W.P.(MD)No.8325 of 2020

N.ANAND VENKATESH, J.

mbi

W.P.(MD)No.8325 of 2020

01.12.2023