



WP(MD)No.7532 of 2014

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP.(MD).No.7532 of 2014 and
MP(MD) Nos.1 & 2 of 2014

P.M.Kannan

... Petitioner

Vs

1.The Assistant Commissioner,
Land Reforms/ Urban Land Ceiling
and Urban Land Tax,
Madurai.

2.The Tahsildar,
Bodinayakkanur,
Theni District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order bearing M.R/4/234/Bodi./b1, dated 08.05.2013 passed by the first respondent and quash the same.



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For Petitioner : Mr.G.Prabhu Rajadurai
For Respondents : Mr.G.V.Vairam Santhosh,
Additional Government Pleader

ORDER

This writ petition is filed as against the orders of the first respondent, dated 08.05.2013 in and by which, the first respondent has cancelled the order of assignment of the lands in S.Nos.78/1BG, 78/1BF, 78/1BH and 78/1B1 of Vadakkumalai Village. These lands have been originally assigned to one Muthiah S/o Masanam, M.Masanam S/o Muthu, Ponraj S/o Chinnakutti Thevar, Ganesan S/o Vadamalaimuthu on 25.01.2001. The petitioner is the subsequent purchaser of the above lands from the original assignees.

2.The learned counsel for the petitioner has claimed that the original assignees have sold the assigned lands as per the assignment conditions 6 and 8, which are extracted as under:-



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6.The land assigned shall not be sold or otherwise alienated before the expiry of the period specified in paragraph 8 below and not even thereafter in respect of lands assigned to a member of Scheduled castes or to a member of Scheduled Tribes except to other members of the Scheduled Castes or to be other members of the Scheduled Tribes, as the case may be.

8.Subject to the conditions of this deed the land will vest absolutely in the assignee only pay the value of the land, buildings and trees thereon is paid in full, or after the expiry of a period of twenty years. If any land assigned under these Rules is required for any public purposes before the recovery of the last instalment of land value due from the assignee, the land may be resumed by Government. In such cases, "the annual value as fixed under schedule III of the Tamil Nadu Land Reforms (Fixation of Ceiling on land) Amendment Act, 1979 (Tamil Nadu Act 11 of 1979", for use of the land from the date of assignment, to the date of resumption by Government and the loans and advances if any,



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granted for the improvement of the land or on the security of the land will be recoverable from the assignee. Subject to adjustment against such dues, the assignee shall be entitled to refund of the instalments of the land value paid by him and reimbursement of the cost of any permanent improvement effected or any structure such as Wells, buildings etc., erected on the land at his own expenses for agricultural purposes or for his own residence.

3.He further submits that this impugned order has been passed in the year 2013 when the original assignees were not alive. Moreover, the impugned order has been passed without any notice either to the original assignees or to the petitioner, the subsequent purchaser of the property. According to the learned counsel, on these grounds, the impugned order cannot be sustained. He further submits that the mutation of revenue records has also been done in favour of the petitioner. The learned counsel has also relied upon the Judgment



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passed by this Court in WA(MD) No.1272 of 2022, dated 11.04.2023.

4.The learned Additional Government Pleader by referring the provisions under the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules 1965 submits that as per the conditions of assignment enumerated under Section 9(3), the land will vest absolutely in the assignee only after the value of the land is paid or after the expiry of 20 years from the date of assignment, whichever is later. Though this condition is not found in the order of assignment, the condition of assignment shall be in accordance with the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules 1965, it is to be noted that the petitioner, who is the purchaser of the lands from the original assignees has also sold the land to one Maheshwaran and therefore as on date, this petitioner is not having any right or claim over the property. He further submits that the impugned order has been passed based on the report filed by the Tahsildar after the field verification



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conducted by him. As per the impugned order, there is no cultivation in the subject land.

5.Heard the learned counsel on either side and perused the materials placed on record.

6.The lands in S.Nos.78/1BG, 78/1BF, 78/1BH and 78/1B1 of Vadakkumalai Village have been purchased by the petitioner from the original assignees. The first respondent has cancelled the order of assignment of the lands as there is no cultivation in those lands. The respondents have not produced any materials that notice has been issued either to this petitioner or to his vendor/original assignee prior to this impugned order. With regard to the requirement of notice, the learned Government Pleader submits that the impugned order has been passed after the field verification conducted by the Tahsildar and also the report filed by the Tahsildar. As per the impugned order, there is no



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cultivation in the land. Though the learned Government Pleader took a stand that there was a field verification, no notice was issued either to the petitioner, who has purchased the property from the original assignees or to the original assignees. Moreover, at the time of passing of the impugned order, the original assignees were not alive. The petitioner, who purchased the land from the original assignees has sold the land to one Maheshwaran. Since the order impugned in this writ petition has been passed as against the dead persons, this writ petition is allowed. The impugned order is hereby set aside. The respondent shall pass a fresh order after ascertaining the present possession of the land and after affording opportunity to all the interested parties. No costs. Consequently, connected Miscellaneous petitions are closed.

12.06.2023

NCC : Yes / No.
Index : Yes / No.
Internet : Yes
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