



W.P.(MD)No.22075 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.12.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.22075 of 2021

and

W.M.P.(MD).No.18683 of 2021

Trichy District Trailer Owners Association
Represented by its President,
NH-45 Trichy – Chennai Bye-Pass Road,
Irungalur Post,
Trichy – 621 105.

... Petitioner

Vs.

1.The District Revenue Officer,
Cum Additional District Executive Magistrate,
Trichy District,
Trichy.

2.The Revenue Divisional Officer,
Lalgudi,
Trichy District.

3.The Tahsildhar,
Lalgudi,
Trichy District.

4.K.Selvaraj

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the impugned



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order passed by the first respondent in his proceedings Na.Ka.B4/31326/2021 dated 07.04.2021 and quash the same as illegal, arbitrary, without jurisdiction and in violation of principles of natural justice.

For Petitioner : Mr.B.Saravanan
Senior Counsel
For Mr.D.Kirubakaran

For R-1 to R-3 : Mr.R.Baskaran,
Additional Advocate General
Assisted by,
Ms.S.Jeyapriya
Government Advocate

For R-4 : Mr.P.Gunasekaran

ORDER

This Writ Petition has been filed challenging the impugned proceedings of the first respondent in Na.Ka.B4/31326/2021 dated 07.04.2021 cancelling the original assignment that was made in favour of one C.Edward and issuing a further direction to restore the property as "Government Poramboke Waste Land" and to carry out necessary mutation in the revenue records.

2. The case of the petitioner is that the third respondent through proceedings dated 02.06.1994 assigned the subject property in Survey No.216 in favour of one C.Edward. The assignment carried certain conditions to be



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fulfilled and for the instant case, it will suffice to take note of Condition No.13 of the assignment order. This assignment condition mandated that the assigned land shall not be sold or encumbered within a period of 10 years from the date of assignment and if this condition is breached, the assignment will be cancelled and the assignment land will be recovered by the Government.

3. The subject property that was assigned in favour of one C.Edward was sub-divided by the Tahsildar through proceedings dated 26.05.1994 and it was subdivided as Survey No.216/7 measuring an extent of 1 hectare. A separate patta was also issued in the name of the original assignee viz., C.Edward in Patta No.1901. The name of the said original assignee was entered in the revenue records.

4. The fourth respondent executed a registered deed of General Power of Attorney dated 04.10.2002 in favour of one David Rajkumar. By virtue of the same, registered sale deed dated 02.01.2003 was executed by the Power of Attorney agent of the original assignee in favour of the fourth respondent and the document was registered as Document No.22 of 2003. The fourth respondent in turn executed a registered sale deed in favour of the petitioner on 16.06.2004 which was registered as Document No.1300 of 2004. After the



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execution of the sale deed, patta was granted in the name of the petitioner in

Patta No.3034. The petitioner was in possession and enjoyment of the property and electricity service connection has also been effected in the said land.

5. The first respondent issued an enquiry notice dated 16.02.2021 and called for an enquiry. Accordingly, the petitioner appeared before the first respondent and put forth his defence. Thereafter, the first respondent through impugned proceedings dated 07.04.2021 cancelled the assignment made in favour of the original assignee on the ground that the land was not cultivated continuously for a period of 3 years and the same is in breach of condition No.14 and the land was also sold without obtaining permission which is a breach of condition No.13. The petitioner after coming to know of the impugned order passed by the first respondent has chosen to file a present Writ Petition before this Court.

6. Heard the learned counsel appearing on behalf of the petitioner, the learned Additional Advocate General assisted by the learned Government Advocate appearing on behalf of the respondents 1 to 3 and the learned counsel appearing on behalf of the fourth respondent.



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7. This Writ Petition along with the connected Writ Petitions came up for hearing on 11.12.2023 and this Court passed the following order:

“Heard Mr.B.Saravanan, learned Senior Counsel appearing on behalf of the petitioners in all these Writ Petitions.

2. The learned Senior Counsel appearing on behalf of the petitioners submitted that Condition Nos.13 and 14 that were imposed at the time of assignment of lands are relevant for the purpose of these Writ Petitions. It was further submitted that as per Condition No.14, the land has to be put to agricultural use within a period of three years from the date of assignment. Insofar as Condition No.13 is concerned, the land should not be dealt with for a period of 10 years without getting permission of the Government.

3. The learned Senior Counsel submitted that out of the nine Writ Petitions, in seven Writ Petitions, namely, W.P.(MD)Nos.9780, 9782, 9783, 9784, 9786 9787 and 9788 of 2021, there is an alleged violation of Condition No. 14 on the ground that the land was not put to cultivation within three years from the date of assignment. Insofar as the other two Writ Petitions namely, W.P.(MD)No.11268 and 22075 of 2021 are concerned, apart from the violation of Condition No.14, the respondents have cancelled the assignment for violation of Condition No.13 also, since the



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land has been sold within a period of 10 years without getting permission from the Government.

4. Insofar as the first batch of seven Writ Petitions are concerned, the learned Senior Counsel submitted that there are sufficient materials to show that the land that was assigned was a rocky terrain and it was unfit for being used for agricultural purposes. The learned Senior Counsel therefore submitted that the respondents cannot expect the writ petitioners to perform an impossibility by undertaking agricultural activities in a rocky terrain.

5. Insofar as other two Writ Petitions are concerned, the learned Senior Counsel contended that in W.P.(MD)No. 11268 of 2021, the sale itself was made after a period of 10 years. In W.P.(MD)No.22075 of 2021, the sale had happened within a period of 10 years.

6. The learned Additional Government Pleader appearing on behalf of the respondents sought for some time on the ground that he is led by the learned Additional Advocate General.

7. Considering the short issue that is involved in these Writ Petitions, post these Writ Petitions under the caption "Part Heard Cases" on 18.12.2023 at 02.15 p.m."



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8. In the instant case, the assignment was made in favour of one C.Edward on 02.06.1994. However, the said Edward had sold the property in favour of the fourth respondent on 02.01.2003, within a period of 10 years and without obtaining any permission. The petitioner purchased this property through a sale deed dated 16.06.2004.

9. The learned Senior counsel appearing on behalf of the petitioner submitted that once the patta was issued in favour of the petitioner, it must be presumed that the conditions of assignment have been fulfilled and that there is no breach of any conditions. To substantiate this submission, the learned Senior Counsel relied upon the order passed in the case of ***C.Tirumalai Gounder Vs The State of Tamil Nadu*** reported in ***2010 SCC Online Madras 4431*** and the order passed in W.P.(MD).No.7097 of 2022 dated 03.10.2023.

10. In the considered view of this Court, the sale that was made by the assignee in favour of the fourth respondent was within 10 years from the date of assignment. This sale was made without getting any permission from the authorities. This is clearly in breach of condition No.13 of the original assignment issued in favour of Edward. Therefore, just because a patta was



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issued in favour of the petitioner who came to the scene subsequently, that by itself will not validate the initial sale deed that was executed in favour of the fourth respondent within a period of 10 years. If that sale itself is held to be in violation of condition No.13, the subsequent sale made in favour of the petitioner thereafter must also fall to the ground.

11. In the light of the above discussion, this Court does not find any ground to interfere with the impugned order passed by the first respondent through proceedings dated 07.04.2021 and accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

21.12.2023

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr



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To

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- 1.The District Revenue Officer – cum -
Additional District Executive Magistrate,
Trichy District,
Trichy.
- 2.The Revenue Divisional Officer,
Lalgudi,
Trichy District.
- 3.The Tahsildar,
Mannachanallur,
Trichy District.



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N.ANAND VENKATESH, J.

Nsr

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