



WP (MD) No.11694 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.11694 of 2017

and

WMP(MD)Nos.9014, 9015, 10789 and 15128 of 2017 of 2017

B.Sadasivam

... Petitioner

Vs

1.The Commissioner of Land Administration &
The Commissioner of Survey and Settlement,
Chepauk, Chennai – 600 005.

2.The District Collector,
Madurai District,
Madurai.

3.The Tahsildar,
Madurai South Taluk,
Madurai District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of Certiorari calling for the records relating to the impugned proceedings of the 1st respondent in Proc.No.F2/22863/2015, dated 29.03.2017 and quash the same as illegal.



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For petitioner : Ms.H.Jasima Yasmin
for M/s.Ajmal Associates

For Respondents : Mr.J.Ravindran,
Additional Advocate General,
assisted by Mr.M.Sarangan,
Additional Government Pleader

ORDER

The petitioner is the subsequent purchaser of the land from Kalimunnisa Bibi, W/o.A.S.M.Ibrahim Sahib. He has filed this writ petition challenging the proceedings of the Principal Secretary / the Commissioner of Land Administration and the Commissioner of Survey and Settlement in his proceedings in Proc.No.F2/22863/2015 dated 29.03.2017.

2.By the order impugned in this writ petition, the land which has been assigned to Kalimunnisa Bibi in the year 1961, which is sought to be cancelled on the ground that Kalimunnisa Bibi's husband ASM.Ibrahim Sahib was an employee in the Railways Department. The assignee by suppressing this fact has approached the officials claiming herself as a poor and eligible for assignment and obtained this assignment of land. When it came to the notice of the officials, action was initiated.



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3.The learned Counsel for the petitioner submits that Kalimunnisa has sold the property. The cancellation of order of assignment was passed after issuing notice to the legal heirs of Kalimuunisa Beevi, namely M.S.A.Mustafa Ibrahim (R3) and Basit Ibrahim (R2) and Umma Hani (R4) and they have informed that they have sold the property and the petitioner is in occupation of the property. However, without providing an opportunity of hearing to the petitioner, who is in possession of the property, pursuant to the sale deed executed in his favour dated 27.03.2008, the impugned order has been passed.

4.The learned Counsel for the petitioner has also relied on the order passed by this Court in the writ petition filed by one MSA.Musthafa Ibrahim in WP(MD)Nos.8799 of 2017 and 11231 of 2017 dated 24.06.2022 and submits that this Court has set aside the impugned order on the ground that the order of assignment cannot be set aside after a period of three years. In this case the assignment order was cancelled after a period of half a century and also by casting a stigma on the assignee namely, Kalimunnisa Bibi and her husband passed away on 02.06.2004.



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5.In view of the order passed in WP(MD)Nos.8799 of 2017 and 11231 of 2017 dated 24.06.2022, this writ petition is allowed. No costs. Consequently connected miscellaneous petitions are closed.

07.12.2023

dsk

To

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B.PUGALENDHI, J.

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