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CRP.No.2080 of 1999

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

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- 1.Sundaram (Died)
- 2.Kasan (Died)
- 3.Bhannari
- 4.Kallyappan
- 5.Aiyavu K
- 6.Arumugam
- 7.Moorthi
- 8.Saroja
- 9.Lakshmi
- 10.Kannan .. Petitioners

(Petitioners 3 to 10 are brought on record as LRs of the deceased 2nd petitioner vide order dated 13.03.2024 made in CMP.Nos.5916, 5919 nad 5921 of 2024 in CPR.No.2080 of 1999)

Versus

- 1.The District Revenue Officer,
Land Tribunal, Ezhilagam, Chennai
- 2.The Assistant Commissioner,
Land Reforms, Erode
3. Muthuswamy Gounder (Died)
4. E.N.Ramasamy (Died)
- 5.Palaniammal @ Papathiammal



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6.Valliammal

7.Murthy

8.Saravanan

9.Maniyal

.. Respondents

(R5 to R9 are brought on record as LR's of the deceased 3rd respondent vide order dated 12.12.2017 made in CMP.No.147 of 2015)

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the order of cancellation of assignment passed by the first respondent viz., the District Revenue Officer, (Land Tribunal), Chennai on 28.04.1999 in APDSL.No.182/92.

For Petitioners : Ms.Vedavalli Kumar

For Respondents

1 & 2 : Mr.T.Arun Kumar,
Additional Government Pleader

For Respondents

3 & 4 : Ms.G.Sumithra

ORDER

This civil revision petition arises against the order passed in APDSL.No.182 of 1992 dated 28.04.1999 allowing a suo motu petition enquiry.

2. The facts leading to the suo motu revision are the subject lands belonged to one C.K.K.Trust. The Assistant Commissioner (Land Reforms)



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initiated proceedings under the Land Reforms Act and found more than 15 acres of land were in surplus. Therefore, the said lands were taken by the Government. Having taken over the lands and since the lands vested with the Government, proceedings were initiated for disposal of the said lands. Accordingly, notices were issued invoking the provisions of Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965 (herein after referred to as “Rules 1965”).

3. In all, 59 persons had applied to the Government for assignment. Of them, eight persons were benefitted with the assignment of the various extents of land. The civil revision petitioners are such beneficiaries.

4. A few persons, who were aggrieved over the assignment, preferred appeals to the appellate authority under Rule 10 of the Rules 1965. The appeals were not preferred in time. Therefore, the appeals were dismissed. An alternative plea requesting the authority to convert the appeals as revisions, was also rejected.



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5. Against the said order, a revision was preferred to the Tamil Nadu Land Reforms Special Appellate Tribunal at Chennai in SRP.No.29 of 1992. This revision came to be dismissed on 03.03.1992.

Subsequently, on coming to know that the assignments in favour of the civil revision petitioners had been made on account of mistake of fact, suo motu proceedings were initiated for cancellation. This was challenged by way of a civil revision petition before this Court in CRP.No.1200 of 1993. The said revision came to be dismissed by this Court on 31.07.1996. At this stage, I should point out that a review petition was filed to review this order in review CMP.No.69 of 1997. I dismissed the review today holding that there is no error apparent on the face of the records.

6. On dismissal of the civil revision petition, the District Revenue Officer cum Land Reforms Tribunal heard the suo motu revision initiated in terms of Rule 11(2) of the 1965 Rules.

7. The main ground that was urged before the suo motu authority was that the petitioners were cultivating tenants and therefore, the assignment



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that was made in their favour is true and valid and does not require any interference.

8. The land Tribunal went through the records and found that two persons namely, Ramasamy and Muthusamy Goundar had been in actual possession of the property on the date of assignment. He has also returned a factual finding that the civil revision petitioners were agricultural coolies in the said property. He also found out that the civil revision petitioners never ever cultivated the assigned land. He also perused the original order of assignment.

9. The original order of assignment, which I have also gone through, shows that the assignment was made to the civil revision petitioners on account of the fact that they have urged before the assignment authority that they are in possession of the property for several decades and before them, their ancestors had been in possession. This plea of the petitioners could not be substantiated before the enquiring authority as well as before the Land Tribunal.



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10. The issue that is presented before me, is whether the authority under 1965 Rules has the power of cancellation if it is brought to its notice that the assignment had been made as a mistake of fact or some other vitiating grounds.

11. I only need to refer to Rule 11(2) of the 1965 Rules. Under these rules, suo motu power can be initiated if there is a material irregularity in the procedure of assignment, or the order of assignment is grossly inequitable, or if it had been passed on a mistake of fact, or owing to fraud, or misrepresentation, or the extent of land assigned together with the other lands in possession of the assignee is in excess of three acres of dry land or 1 ½ acres of wet land.

12. The fact that the assignment had been made in favour of the civil revision petitioners on the grounds that they had been in possession of property cannot be disputed by the petitioners. This is because it is on that basis, the initial order of assignment itself was made in their favour.



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13. If that be the situation, the fact finding authority has come to a clear and categorical conclusion that the civil revision petitioners were never in possession of the property and it was under the possession and occupation of one E.N.Ramasamy and Muthusamy Gounder. This shows that the original order of assignment passed by the authority is on the basis of mistake of fact and therefore, under Rule 11 (2) the revisional authority has sufficient powers to set aside the order of assignment.

14. In the light of the above discussion, I do not find any merits in the civil revision petition. The same is dismissed. No costs.

15. The second respondent namely the Assistant Commissioner, Land Reforms, Erode shall immediately take steps to call for fresh applications in terms of the 1965 rules and proceed further in accordance with law.

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Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no



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The District Revenue Officer, (Land Tribunal), Chennai



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V.LAKSHMINARAYANAN, J.

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