IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **09.07.2024**

CORAM:

THE HONOURABLE MR.**JUSTICE R.SUBRAMANIAN**

AND

THE HONOURABLE MR.**JUSTICE R.SAKTHIVEL**

Writ Appeal No.2099 of 2023
and CMP No.17951 of 2023

1. The District Revenue Officer,
 Krishnagiri.

2. The Assistant Director,
 Survey and Land Records Department,
 Collector Office, Krishnagiri.

3. The Revenue Divisional Officer,
 Hosur, Krishnagiri District.

4. The Tahsildar,
 Hosur Taluk,
 Krishnagiri District. ... Appellants

Vs.

K. Anbazhagan .. Respondent

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 26.10.2021 made in W.P. No.22365 of 2018.

For Appellants : Mr.A.Selvendran
Special Government Pleader

For Respondent : Mr.R.Bharathkumar

JUDGMENT

(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

The State aggrieved by the order made in WP No.22365 of 2018 dated 26.10.2021, in and by which, the said Writ Petition was allowed quashing the order of the first appellant dated 30.07.2018 and a consequential direction to the respondents to delete the wrong entries made in the Revenue Records in respect of Survey Nos.30/8 and 30/9 of Anumepalli Village, Hamlet of Zuzuwadi of Hosur Taluk, Krishnagiri District and direct issuance of Patta to the petitioner on the basis of the Report of the Assistant Director, Survey and Land Records, Krishnagiri dated 03.11.2015.

2. The Writ Petition came to be filed in the following backdrop:

One Krishnappa S/o.Muniappa had occupied the land that was classified as un-assessed waste in Anumepalli Village, Hamlet of Zuzuwadi, Hosur Taluk, Krishnagiri District, in very early times, he would claim title to it under a Sale Deed of the year 1949. However, since the land was classified as un-assessed waste upon his application a publication was made on 01.09.1982 inviting objections from the public for the proposed re-classification of the land as 'Assessed waste' to enable assignment of the land to the encroacher. There were no objections from the public and by an order dated 02.03.1984, the Sub Collector, Hosur, classified the land into assessed waste and fixed the price of the same at Rs.2,885/- per acre. The claimant viz. Krishnappa S/o.Muniappa was required to pay the said sum.

3. Subsequently on 11.10.1984, the Tahsildar, Hosur, required the assignee Krishnappa S/o.Muniappa to inform of his willingness to pay the current market value of the land. Thereafter, it is seen from the records that the land in question was eventually assigned to Krishnappa S/o.Muniappa, by the order of the Tahsildar, Hosur on 22.07.1985. However, subsequently it appears that the land was classified as "பாறை" (Rocky Land) and zero value was entered in the year 2005 thereby preventing the purchasers from Krishnappa from transferring the property. Therefore, the purchasers made an application for correction of the Revenue records. This resulted in an enquiry being conducted by the Tahsildar, Hosur, who sent this Report on 03.11.2015 setting out the entire facts and concluding that the classification as "பாறை" and entering of zero value are incorrect.

4. The Assistant Director of Survey and Land Records, also sent a Report dated 26.05.2016 recommending alteration of the Revenue Record and issuance of Patta in favour of the claimant. Since nothing was done, the petitioner filed a Writ Petition in WP No.23735 of 2016 in this Court seeking a Mandamus directing deletion of the wrong entries pursuant to the Reports of the Tahsildar and the Assistant Director of Survey and Land Records. This Court directed the first respondent to take note of the letter of the Assistant Director of Survey and Land Records, Krishnagiri and pass orders on the representation of the petitioner dated 16.02.2015. Despite such clear direction, the District Revenue Officer, Krishnagiri by her proceedings dated 30.07.2018 rejected the claim of the petitioner on the ground that the petitioner has not produced any records to show the factum of assignment. This led to the filing of the Writ Petition in WP No.22365 of 2018.

5. The Writ Court after taking into account the earlier orders which have been discussed supra held that the petitioner has established the fact that the lands were assigned to Krishnappa S/o.Muniappa, who in turn divided it into plots and sold to various individuals. On the said finding, the Writ Court allowed the Writ Petition. Aggrieved the District Revenue

Officer, Krishnagiri and the other officials of the Revenue Department are on Appeal.

6. We have heard Mr.A.Selvendran, learned Special Government Pleader appearing for the appellants and Mr.R.Bharath Kumar, learned counsel appearing for the respondent.

7. The two Reports viz. the Report of the Tahsildar, Hosur, dated 03.11.0215 and the Report of the Assistant Director of Survey and Land Records dated 26.05.2016 are very clear and categorical. They acknowledge the fact that the lands have been assigned to Krishnappa S/o.Muniappa, who had divided it into plots and sold to various individuals. The records have also been placed before us as well as the Writ Court, the documents that has been referred to by the Tahsildar and the Assistant Director of Survey and Settlement, in their proceedings have also been placed before us. These documents very clearly demonstrate that the land in question was converted into assessed waste dry and was assigned to Krishnappa S/o.Muniappa.

8. The original order of assignment dated 22.07.1985 has also been produced before us. This assignment unlike the other assignments is not an assignment sans consideration. This is an assignment for consideration made after collecting the land value from the assignee. Therefore, the assignee was entitled to deal with the land assigned to him. He has divided into plots and sold into various individuals. By classifying the land as "பாறை" and bringing it to zero value, the Authorities have in fact interfered with the right of the purchasers without any just cause.

9. When all these facts are brought to the notice of the District Revenue Officer, the District Revenue Officer had dealt with these documents in a pedantic manner and has chosen to reject the same and has concluded that there is no evidence to show that Krishnappa, the original assignee, has paid the consideration for the assignment. Once the original assignment has been made, it being an official Act, the presumption under Section 114 of the Evidence Act would apply and it shall be presumed that the price fixed was paid. Therefore, there can be no doubt that the land has been assigned to Krishnappa S/o.Muniappa and the Writ Court was justified in allowing the Writ Petition and directing restoration of the Revenue Records in the name of the purchasers of the land from Krishnappa S/o.Muniappa.

10. We therefore dismiss the Writ Appeal with the cost of Rs.50,000/-. The direction issued by the Writ Court shall be implemented within a period of 12 weeks from today. Consequently, the connected miscellaneous petition is closed.

11. Since we have found that the first appellant District Revenue Officer had passed an order in a pedantic manner forcing the petitioner to approach this Court and despite the Writ Court allowing the Writ Petition, the Government has chosen to file an Appeal, the Government will pay a cost of Rs.50,000/- which will be recoverable from the salary or pension of the first appellant viz. the District Revenue Officer Tmt.Shanthi B.E., who had passed the order impugned in the Writ Petition. The cost shall be paid to CANCARE FOUNDATION, 3A, Ramaniyam Saras, 39/17, 4th main Road, Gandhi Nagar, Adayar,Chennai-600020. The bank details are:

Axis Bank Ltd. Address: 82, Dr. Radhakrishnan Salai, Mylapore, Chennai - 600004 Tamil Nadu Axis Bank, Mylapore branch SB Account No. 910010023217651 IFSC Code: UTIB0000006. The costs shall be paid within a period of four weeks from the date of receipt of a copy of this order.

(R.SUBRAMANIAN, J.) (R.SAKTHIVEL, J.)

09.07.2024

jv
Index: No
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Speaking order
Neutral Citation: No

To

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and

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(jv)

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