



W.P.No.4954 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.No.4954 of 2013 and
M.P.No.2 of 2013**

1.A.George (Died)
2.Yesumeri
3.Mary
4.Iline Priscilla
5.Eveline Premila
Petitioners

...

*(*P3 to P5 were substituted as LR's of the deceased first petitioner vide order dated 30.06.2022 made in W.M.P.No.15547 of 2022 in W.P.No.4954 of 2013*)*

Vs.

1. The Revenue Divisional Officer,
Erode, Erode District.

2.The Tahsildar,
Perundurai, Erode District.

3.V.K.Subramaniam

4.S.Ayyasamy (Died)



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5.K.P.Ramasamy

6.S.A.Senthilkumar

... Respondents

*(*R6 was substituted as LR of the deceased fourth respondent vide order dated 13.06.2022 made in W.M.P.No.8442/2017 in W.P.No.4954/2013*)*

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for the records pertaining to the impugned order of the first respondent passed in proceedings Na.Ka.No.5321/2012/B1, dated 22.12.2012 so far as the petitioners' 1/6th share in S.F.Nos.60/1, 60/4 and 60/6 and to quash the same.

For Petitioners : Mr.L.Chandrakumar

For Respondents : Mr.U.Baranidharan
Additional Government Pleader
for R1 and R2
Mr.A.Sundaravadhanan
for R3, R5 and R6

ORDER

This Writ Petition has been filed challenging the impugned order passed by the first respondent vide proceedings in Na.Ka.No.5321/2012/B1, dated 22.12.2012, insofar as the petitioners' 1/6th share in S.F.Nos.60/1, 60/4 and 60/6 is concerned.



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2. The learned counsel appearing for the petitioners submits that the property in S.F.Nos.60/1, 60/4 and 60/6 situated in Sullipalayam Village, Perundurai Taluk, Erode District, was assigned to one Sankarammal, who had six children. One of the children, namely, Ponnammal had adopted the petitioners herein and the petitioners inherited 1/6th share in the subject property. The other legal heirs of Sankarammal, without the knowledge of the petitioners, sold the share of the petitioners to the respondents 3 to 5, due to which, the petitioners filed a suit in O.S.No.250 of 1995 before the District Munsif cum Judicial Magistrate, Perundurai, and a decree was passed allotting 1/6th share in favour the petitioners. While so, the first respondent, vide impugned order dated 22.12.2012, has ordered for resumption of entire extent of 1.49.5 hectares of the land including the share of the petitioners in the land on the ground that in violation of assignment condition, the property has been sold to the respondents 3 to 5, without issuing any notice to the petitioners. In fact, the petitioners also belong to Scheduled Caste Community, and the land owned by them cannot be



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resumed. Hence, the present writ petition has been filed challenging the impugned order dated 22.12.2012.

3. The learned Additional Government Pleader appearing for the respondent Nos.1 and 2 submits that the legal heirs of Sankarammal have sold the assigned lands to the persons belonging to Non-Scheduled Caste Community people, in violation of the restrictions imposed on alienation that the lands assigned shall not be alienated to any person (whether a member belongs to the Scheduled Caste or not) in any manner before the expiry of ten years from the date of grant not even thereafter except to other members of these Castes and therefore, the present impugned order was passed by the first respondent ordering for resumption of the subject land.

4. Heard the learned counsel appearing for the petitioners, the learned Additional Government Pleader appearing for the respondent Nos.1 and 2 and the learned counsel appearing for the respondent Nos.3, 5 and 6.



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5. It is the case of the petitioners that as against the sale of their share by the other legal heirs of Sankarammal in favour of the respondent Nos.3 to 5, O.S.No.250 of 1995 was filed by the petitioners, in which, the trial Court granted the share of 1/6th in favour of the petitioners. By virtue of this, the petitioners are enjoying their share. The subject property was initially assigned to one Sankaranammal, who belonged to deprived class. However, all of a sudden, the impugned order was passed by the first respondent ordering for resumption of the subject property.

6. It is the specific case of the petitioners that the original assignee, namely, Sankarammal, was a person belonging to the deprived class in favour of whom the assignment was made and the property thereafter was devolved on her legal heirs which includes the petitioners herein and 1/6 share of the property was given to the petitioners by means of the decree passed in O.S.No.250 of 1995. Merely because the other legal heirs have sold the property in favour of the respondents 3 to 5 cannot be the basis to



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resume the property which has been allotted to the share of the petitioners.

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When the original assignee belonged to the deprived class, for whom initially the property was assigned which has been passed on to the petitioners/legal heirs of the original assignee, on the death of the original assignee, the impugned order passed by the first respondent ordering for resumption of the land without properly conducting enquiry and ascertaining as to whether the property is held by the persons belonging to the deprived class is erroneous. The above materials clearly reveals that the first respondent has not properly appreciated the case and has resumed the land which has been allotted to the share of the petitioners in O.S.No.250 of 1995. In such view of the matter, the impugned order dated 22.12.2012 passed by the first respondent deserves to be set aside and it is set aside, insofar as the petitioners' 1/6th share in S.F.No.60/1, 60/4 and 60/6 is concerned.



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7. Accordingly, this Writ Petition is allowed. There shall be no order as to costs. Connected miscellaneous petition is closed.

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NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No
ssb

To

1. The Revenue Divisional Officer,
Erode, Erode District.
2. The Tahsildar,
Perundurai, Erode District.



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M.DHANDAPANI,J.

ssb

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and
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