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W.A.No.2883 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.A.No.2883 of 2023
and
C.M.P.No.23998 of 2023

1. The Principal Secretary
and Commissioner of Land Administration,
Chepauk, Chennai - 600001.

2. The District Revenue Officer,
Chengalpattu District.

3. The Tahsildar,
Madurantakam Taluk,
Chengalpattu District.

... Appellants/Respondents

Vs.

Mohamed Imranullah

... Respondent/Petitioner

Prayer :- Writ Appeal filed under Clause 15 of Letters Patent, praying to
set aside the order dated. 16.12.2021 made in W.P. No.14353 of 2014.

For Appellants : Mr.A.Selvendran,
Special Government Pleader

For Respondent : No Appearance



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JUDGEMENT

(Judgement of the Court was delivered by S.M.Subramaniam J.)

A Writ Appeal has been filed against the order dated 16.12.2021 in W.P.No.14353 of 2014. The respondents in the writ proceedings are the appellants before us.

2. The original order, passed by the District Revenue Officer, Kancheepuram, to resume the D.C. land assigned in favour of the respondent, was confirmed by the Commissioner of Land Administration in proceedings dated 29.11.2013. The said order indicates that the subject land assigned in favour of the respondent is classified as “Dry Anadinam” and was assigned in favour of one Thiru Panduranga Naicker, who was an Ex-Servicemen. The original assignment was made by the Sub Collector.

3. As per the special condition stipulated in the assignment order, the assignee cannot sell the land for a period of 10 years. After the completion of 10 years of period, the assigned land can be alienated, but only with the prior permission of the Government.



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4. Clause 15 (12)(3) of the Revenue Standing Order stipulates Special Conditions as under :

“ The assigned land shall not be alienated for a period of ten years from the date of assignment. In the event of the assignee wishing to dispose of the land after the above period, he should get prior permission of either the Tahsildar or the Revenue Divisional Officer, who should give permission only, if the sale is to one of the categories, eligible for assignment of Government Waste lands for cultivation purposes ”

5. The learned Special Government Pleader Mr.A.Selvendran would submit that admittedly the land was assigned under Clause 15 of the Revenue Standing Orders, in favour of the respondent. He sold the property on completion of 10 years of the assignment. However, no prior permission was obtained from the Government before selling the said property. Thus, the assignee had violated the special conditions imposed in the assignment order. Consequently, the District Revenue Officer initiated action to resume the Government land for assigning the same in favour of the eligible persons.



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6. The respondent has relied upon Clause 15(24)(1) read with Clause 15(23)(1) of the Revenue Standing Order. Revenue Standing Order 15(24)(1) reads as under:

“24. Assignment of land to Ex Servicemen

(1) Provision under the Old Scheme Under the assignment policy of Government as enunciated in 1949, Ex Servicemen were eligible for cost free assignment of that extent of land which together with the land already owned by them, made up a total extent of 5 acres (2.02.5 Hect) of wet or 10 acres (4.04.5 Hect.) of dry subject to the conditions mentioned against paragraph 23(1) in respect of political sufferers”

Clause 15(23)(1) reads as under:

“23. Assignment of land to political sufferers

(1) Provisions under the Old Scheme Under the assignment policy of the Government as enunciated in 1949, political sufferers were given first preference in the matter of assignment of land. The assignment of 4.4.5 Hec. of dry or 2.2.5 of wet was free of land value but subject to the special conditions of bringing the land under cultivation within a period of 3 years and not selling or otherwise alienating within a period of



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ten years from the date of assignment and cancellation and resumption of the land in the event of violation of conditions.”

7. Clause 15(24) of the Revenue Standing Order provides eligibility criteria for free assignment of Government land. Clause 15(23)(1) of the Revenue Standing Order stipulates that the assignment made is subject to special conditions of bringing the land under cultivation within a period of 3 years and not for selling, or alienating the land within a period of 10 years from the date of assignment. Violation will result in cancellation. Clause 15(23)(1) of the Revenue Standing Order is relating to assignment of land to political sufferers and in the present case, the Government land was assigned in favour of an ex-servicemen. In any event, special conditions commonly imposed to all the assignees under Clause 12(3) of the Revenue Standing Order is applicable for alienating the assigned Government lands. The special condition imposed in the Revenue Standing Orders would be applicable to all assignment of Government lands.

8. The respondent preferred a revision petition, where the Commissioner of Land Administration confirmed the order passed by the



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District Revenue Officer. The conditions including the special conditions stipulated in the assignment order are binding on the assignee. It is not in dispute that the land was assigned in favour of the respondent and he has alienated the Government land without obtaining any prior permission from the competent authority. The said factum was not interpreted with reference to the special conditions imposed in Revenue Standing Order 15 by the Writ Court and therefore, we are inclined to consider the present writ appeal.

9. Accordingly, the order impugned dated 16.12.2021 in W.P.No.14353 of 2014 is set-aside and the writ appeal stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

(S.M.S.J.)

(K.R.S.J.)

14.03.2024

Index : Yes/No

Internet: Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

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S.M.SUBRAMANIAM, J.

and

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