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W.A.No.1623 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

W.A.No.1623 of 2021
and
C.M.P.No.10135 of 2021

1. The Special Commissioner And
Commissioner of Land Administration,
Chepauk, Chennai 5.

2. The District Collector,
Collectorate, Erode.

3. The District Revenue Officer,
Collectorate, Erode.

... Appellants

Vs.

Chinnasami Gounder

... Respondent

Prayer :- Writ Appeal filed under Clause 15 of the Letters Patent Act, to set aside the order dated 26.11.2019 passed in WP No.37979 of 2005 and allow this Writ Appeal.

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

For Respondent : Mr.P.R.Balasubramanian



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J U D G E M E N T

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

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The Commissioner of Land Administration is the appellant before us. The writ order dated 26.11.2019 in W.P.No.37979 of 2005 came to be challenged in the present writ appeal.

2. The land measuring an extent of 0.29.5 Hectors (72 cents) in S.NO.92/1 Odathurai Village, Bhavani Taluk, Erode District has been assigned in favour of the respondent by the Additional District Collector in his proceedings dated 29.05.1985 on payment of entire land cost. The land cost fixed was Rs.17,177/-. The respondent paid the entire land cost and taken possession of the government assigned land.

3. Mr.A.Selvendran, learned Special Government Pleader, appearing on behalf of the appellants would submit that the writ was allowed based on an erroneous interpretation of RSO 15(18) which stipulates no time limit for exercise of the powers of revision by the Government and the Commissioner for Land Administration.



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4. The learned Special Government Pleader would submit that the Additional District Collector has been conferred with the powers to assign lands for the value up to Rs.10,000/-. If the value of the Government land exceeds Rs.10,000/-, then the Collector has no power to grant assignment. Therefore, the writ was allowed based on an erroneous interpretation of revenue standing order and the jurisdiction of the Additional District Collector, to grant assignment during the relevant point of time, was not considered.

5. The learned counsel for the respondent, Mr.P.R.Balasubramanian would oppose by stating that land was assigned as per the revenue standing orders. The Additional District Collector assigned land by fixing the land's market value of Rs.17,177/- and the respondents herein (writ petitioners) paid the reclamation charges. Even during the pendency of the writ appeal, the respondents paid the demanded sum of Rs.10,000/- based on the order of the writ court. That apart, the respondent is in possession of the assigned land for several years.



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6. Learned counsel for the respondents would submit that the respondent is an agriculturist and therefore, he may be permitted to utilise the assigned land.

7. The legal question which would arise for the consideration are that:

(i) whether the assignment of the Government land, made by the Additional District Collector, is exceeding his jurisdictional limit or not?

(ii) whether RSO 15(18) provides power to the Commissioner of Land Administration to cancel the assignment order beyond the period of three years or not?

8. With reference to the first issue, G.O.Ms.No.735, Revenue Department dated 04.05.1990 reveals that the District Collector is empowered to grant assignment if the market value of the land is up to Rs.10,000/-, which was extended to Rs.20,000/- only with effect from 04.05.1990. In the present case, the assignment was admittedly made in the year 1985. Therefore, the District Collector, during the relevant point of time, had no power to assign the land, wherein the value exceeds Rs.10,000/-.

9. The contention of the respondent that the District Collector had



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deducted the reclamation cost is unacceptable. When the order of the Government stipulates that the market value of the land is to be taken into consideration for granting assignment, the District Collectors are not provided with the power to deduct the cost for reclamation.

10. RSO 15(18) provides revision. The learned Single Judge considered RSO 15(18), and formed an opinion that the Commissioner of Land Administration has to exercise his powers within the period of three years, we have considered the spirit of clause (18) RSO 15 which stipulates that "*(18) Revision :- ... The Commissioner of Land Administration or the Government may set aside, cancel or in any way modify the decision of any authority subordinate to them, if they are satisfied that the decision was grossly inequitable etc. They may exercise these powers without any limit of time ie., even in case prior to 14.05.1973, where there has been a material irregularity in the procedure or where the decision exceeded the powers of the Officer, who passed it or where it was passed under a mistake of fact or owing to fraud for misrepresentation. The authorities competent to pass orders in revision under this para may also grant stay pending their orders in revision.*"



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11. The first portion of Clause (18) RSO 15 is inapplicable to the facts of the present case since the revision power has been exercised by the Commissioner of Land Administration. As far as the Government and the Commissioner of Land Administration are concerned, they are empowered to set aside, cancel or modify the decision of any authority subordinate to them. The power shall be exercised without any limit of time i.e., even in case prior to 14.05.1973. The spirit of the Revenue Standing Order is to ensure that the Government lands, assigned illegally and in a wrongful manner, are resumed for the benefit of the public at large. That is the reason why power has been conferred to the Government and the Commissioner of Land Administration, to revisit the assignments made even prior to 14.05.1973. The purport of the revenue standing order would indicate that steps are to be taken to cancel wrong, illegal, fraudulent assignments of the Government land and evict the illegal occupants from the public properties and to regulate the same and utilise for public purposes.

12. In the present case, in the year 1985 the District Collector has no powers to grant assignment of Government land if the market value of the



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land exceeds Rs.10,000/-. Admittedly, the market value of the subject land, assigned in favour of the respondent, was Rs.17,000/-. Therefore, the assignment itself is illegal and without any jurisdiction.

13. Regarding the power of Revision, to be exercised by the Commissioner of land administration, Clause (18) RSO 15 in clear terms stipulates that the power may be exercised by the Commissioner of land administration without any limit of time, ie., even in case prior to 14.05.1973. Therefore, the powers are unfettered, and conferred in order to protect the Government lands and to resume the Government lands from the unlawful and illegal occupants. That being the object of the Clause (18) RSO 15, we are of the considered opinion that the Writ Court has interpreted the said Revenue Standing Order erroneously. Therefore, we are inclined to interfere.

14. Thus, the appellants/ competent authorities shall take possession of the land. However, the respondents shall be permitted to harvest the existing standing crops if any found on the land.

15. Accordingly, the order dated 26.11.2019, in W.P.No.37979 of 2005 is set aside and the present writ appeal stands allowed. No costs.



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Consequently, connected miscellaneous petition is closed.

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(S.M.S.J.,)

(C.K.J.,)

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Index : Yes/No

Internet: Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

(sha)



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S.M.SUBRAMANIAM, J.

and

C.KUMARAPPAN, J.

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