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WP.No.12606 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

WP.No.12606 of 2024

1.K.Arunachalam
2.R.Sakthivel
3.K.Beer Mohammed
4.Samboornam

.. Petitioners

Versus

1.State of Tamil Nadu
Rep by its Secretary
Department of Revenue
Secretariat, Fort St.George
Chennai – 600 009

2.The Commissioner
Coimbatore District
Coimbatore

3.The District Collector
Coimbatore District
Coimbatore

4.The Revenue Divisional Officer & Assistant
Commissioner (Land Reforms)
Pollachi Sub-Division
Coimbatore

5.The Tahsildar
Pollachi Taluk
Coimbatore District

.. Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 4th Respondent authorities to delete clause No. 6 of the conditions refereed in Appendix to the Deed of Assignment issued under their proceedings bearing No. 901/2015 dated 28.09.2017/A/O. No. 13 A.O. No. 63 A.o.No.60 and A.o.No. 64 respectively issued to the Petitioners and consequently issue a corrected assignment order to the petitioners herein recognizing the rights of the petitioners in terms of the 2nd respondents order bearing No. D1/R.P.5 to 11/1997 dated 14.06.1999.

For Petitioner : Mr.R.Arumugam
For Respondents : Mr.A.Selvendran
Special Government Pleader

ORDER

This writ petition is filed for a direction to the fourth respondent to delete clause No. 6 of the conditions refereed in Appendix to the Deed of Assignment issued under their proceedings bearing No. 901/2015 dated 28.09.2017/A/O. No. 13 A.O. No. 63 A.o.No.60 and A.o.No. 64 respectively issued to the Petitioners and consequently issue a corrected assignment order to the petitioners herein recognizing the rights of the petitioners in terms of the 2nd respondents order bearing No. D1/R.P.5 to 11/1997 dated 14.06.1999.

2. The main contention of the learned counsel for the petitioners is that the right of the petitioners have been crystallised in the year 1999 by the Order dated 14.06.1999 passed by the Land Commissioner, Chennai. Therefore, according to the learned counsel for the petitioners if the lands have been assigned in the year 1999 or atleast in 2007, the period of 20 years of



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restriction placed as one of the condition in appendix would have been expired automatically. Therefore, the petitioners would have become the absolute owners of the property without any restriction for their enjoyment of sale whatsoever. Hence, according to him, the condition imposing ban of alienation for a period of 20 years from the date of assignment has to be set aside as far as the petitioners assignment is concerned.

3. Mr.A.Selvendran, learned Special Government Pleader appearing for the respondents submitted that the assignment is a prerogative right normally given by the Government with certain conditions. Such conditions cannot be taken away. Restriction or restrictive assignment itself is for the purpose of resuming the land in the event of violation of any conditions. Such being the position, as a matter of right conditions cannot be removed.

4. Heard both sides and perused the materials placed on record.

5. The petitioners were given assignment of lands of 1 acre and 95 cents by the Government. At the time of assignment, following conditions were included.



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APPENDIX CONDITIONS

1. The assignment shall be liable to be modified or cancelled if it is found that it was made under a mistake of fact or owing to misrepresentation or fraud or that there was an irregularity in the procedure. The assignment shall be modified or cancelled if it is shown that the extent assigned to the assignee is in excess of the limits prescribed in the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 (Tamil Nadu Act 58 of 1961) or the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965, as the case may be.

2. In the event of the modification or cancellation of an assignment, the land assigned shall be resumed from the assignee, either in part or in full, as the case may be, and on such resumption, the assignee, shall not be entitled to an amount for any improvement effected by him on the land. The value of the land, buildings and trees thereon paid by him, may, at the discretion of the assigning authority be refunded to him, in part or in full. The assignee shall be liable for payment, for each year of occupation, on amount equal to the annual value as calculated



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in the manner specified in Part I of Schedule III to the Act and ten per cent of the value of trees, structures and fixtures thereon determined:

Provided that where the land was such that it could not be cultivated without considerable work and expenditure and also the land was left fallow during any period, the amount may be waived for that period. The assignee shall also be liable for damages, if any, caused by him to the land. The amount for the occupation and the damages shall be recovered from him by deduction from the value of the land, buildings and trees thereon paid by him, if the amount for the occupation and the damages exceeds the value of the lands, buildings and trees thereon paid by him, such excess shall be recovered from him, as if it were an arrear of land revenue.

3. All sums found due to the Government under or by virtue of the orders of assignment, shall be recovered from the assignee and his properties movable and immovable, under the provisions of the Tamil Nadu Revenue Recovery Act, 1864 (Tamil Nadu Act II of 1864), as if such sums were arrears of land revenue, or in any other manner as the Government may deem fit.



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4. *The annual assessment on the land shall be liable to periodical revision at re-settlement.*

5. *The Government reserves the right to levy ground rent, in lieu of assessment, if the land or a portion thereof is used for a non-agricultural purpose and such ground rent shall be liable to revision from time to time, in accordance with the rules in for*

6. *The land assigned shall not be sold or otherwise alienated before the expiry of a period of twenty years from the date of assignment or before the payment of the value of the land and buildings and trees thereon in full, whichever is later and not even thereafter in respect of lands assigned to a member of Scheduled Castes or to a member of Scheduled Tribes except to other members of the Scheduled Castes or to the other members of the Scheduled Tribes /as) the case may be :*

Provided that the land may be hypothecated Government under the Land improvement Loans Act, 1883 (Central Act XX of 1883) and the Agricultural Loans Act, 1884 (Central Act II of 1884) or to a co-operative institution or a scheduled bank authorised by the Government for affording credit to the agriculturists under the schemes of institutional financing of



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agricultural credits as security for loans obtained for improvement to the lands.

7. Where the value of the land and buildings and trees thereon is payable in instalments:-

(a) The first instalment shall be payable before the execution of the deed of assignment.

(b) The second and subsequent instalments of the land value shall be payable on the 10th day of February of every succeeding year.

(c) In the event of default in the payment of an instalment, the amount of the instalment shall be recovered as an arrear of land revenue.

(d) In the event of default in the payment of two consecutive instalments, the amount already paid shall be liable to be forfeited to the Government and the land shall be liable to be resumed; and

(e) If in any year, due to adverse seasonal conditions, the land revenue in respect of the land is remitted or suspended, the recovery of the instalment payable that year and of the instalments payable in subsequent years shall be postponed by



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one year.

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8. *Subject to the conditions of this deed, the land will vest absolutely in the assignee only after the value of the land, buildings and trees thereon is paid in full or after the expiry of a period of twenty years from the date of assignment, whichever is later. If any land assigned under theses rules is required for any public purpose before the recovery of the last instalment of land value due from the assignee, the land may be resumed by as Government. In such cases the annual value fixed under schedule III of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1979 (Tamil Nadu Act II of 1979), for the use of the land from the date of assignment to the date of resumption by Government and the loans and advances if any, granted for the improvement of the land or on the security of the land will be recoverable from the assignee. Subject to adjustment against such dues, the assigned shall be entitled to refund of the instalments of land value paid by him and reimbursement of the cost of any permanent improvement effected or any structure such as wells, buildings, etc., erected on the land at his own expenses for agricultural purposes or for his own residence.*



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9. The assignee shall engage himself in direct cultivation of the land assigned: Provided that this condition shall not be applicable to person referred to in rule 5(1) (v), and persons who are physically or mentally disabled women including widows, and old persons who have no dependent or family members to do cultivation on their behalf.

10. The assignee shall pay, on the due dates, the land revenue assessment, cesses, and local taxes, in force from time to time in respect of the land assigned, with effect from the year in which the assignment is sanctioned.

11. The assignees shall pay the difference of the land value and the interest thereon, if the amount payable to the land owner in respect of the land is revised by, or on the orders, of any competent authority.

12. The assignment shall be liable to be cancelled in case of violation of any of the conditions of assignment.

13. The assignee shall abide by such other conditions as may be imposed under rule 9.”



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6. According to the petitioners, assignment was given in pursuant to the rights crystalised by the Land Commissioner, Chennai in the year 1999. It is relevant to note that orders passed by the Land Commissioner in the year 1999 in a representation filed by the petitioners, wherein, the petitioners sought certain rights on the basis of their continuing cultivation of the lands held by the owners. Only in that context, the Land Commissioner held that since the petitioners were cultivating the lands of the erstwhile owner, they are eligible for assignment of surplus lands. Further, the said order has not been complied and different order has been passed in the year 2007. Thereafter, proceedings have been issued on 02.03.2007 for assigning the land. Now, it is the contention of the learned counsel for the petitioner that if the assignment has been issued in the year 1999, the period of 20 years would have been elapsed or expired. Therefore, since the assignment was issued later, the condition of 20 years would not have been imposed for the sale of properties. This Court is unable to countenance such submissions. The assignment of land is not automatic, it is the prerogative of the Government to assign any land. The Government can resume the land at any time in the event of any violations of the conditions stipulated in the assignment. Only for the purpose of retaining the control and resuming the land, such strict conditions are normally imposed



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on the assignment. Such being the position, the Government being a Sovereign has every right to impose such conditions particularly when the lands are assigned at free of cost.

7. Accordingly, I do not find any merits in the case and this writ petition stands dismissed. No costs.

04.06.2024

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Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

To,

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State of Tamil Nadu
Department of Revenue
Secretariat, Fort St.George
Chennai – 600 009

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N. SATHISH KUMAR, J.

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Coimbatore District

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