



S.A.No.700 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.11.2024

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

S.A.No.700 of 2017

1.R.Vijayamohan
2.Dhatchayani
3.Jayalakshmi
4.Rajagopal

.. Appellants

Vs.

Srilatha

.. Respondent

PRAYER : Second Appeal is filed under Section 100 of the Code of Civil Procedure, prayed against the Judgment and Decree passed by the learned II Additional District and Sessions Court, Tiruppur, dated 21.11.2016, which confirmed the decree and judgement passed in O.S.No.300 of 2008 on the file of the Subordinate Court, Tiruppur, dated 07.04.2011.

For Appellants : Mr.V.K.Vijayaragavan

For Respondent : Mr.K.V.Sundararajan



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JUDGMENT

The appellants have filed this Second Appeal against the Judgment and Decree of the learned II Additional District and Sessions Court, Tiruppur, dated 21.11.2016, which confirmed the decree and judgment passed in O.S.No.300 of 2008 on the file of the Subordinate Court, Tiruppur, dated 07.04.2011.

2. Heard Mr. V.K. Vijayaragavan, learned counsel for the appellants, and Mr. K.V. Sundararajan, learned counsel appearing for the respondent, and perused the materials available on record.

3. For the sake of convenience, the parties herein are referred to as they were ranked in the suit.

4. The defendants, challenging the concurrent findings of the Courts below, have preferred this appeal.



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WEB COPY 5. In the trial Court, the respondent/plaintiff, Srilatha, filed a suit for declaration and permanent injunction, asserting that she is the absolute owner of the suit properties described in the plaint schedule, covering an extent of 8.20 acres. The plaintiff's case is that by virtue of a sale deed executed by her vendor, C. Ramesh, for valid consideration on 19.02.2003, through a registered sale deed, she purchased the suit properties and has since enjoyed them as the absolute owner. At the time of purchase, she verified all revenue records regarding the title of her vendor and his predecessors. Satisfied with the title and possession, she completed the purchase, and her name subsequently appeared in revenue records, such as the Chitta.

6. The plaintiff submitted that the suit property originally belonged to one Narayana Samy Goundar, who had acquired and was allotted the land under the Land Reforms Act, with a patta issued in 1968. Thereafter, he sold the property to one Rathinambal in 1989. From Rathinambal, her vendor Ramesh purchased the properties on 20.10.1993. She then purchased the



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properties from him on 19.02.2003 through a registered sale deed. All the revenue records and title deeds indicate that, since 1968, her predecessors in title had enjoyed the property. Meanwhile, defendants D1 to D4 allegedly made false claims over the suit properties and attempted to alter her vendor's name and her own name in the revenue records with ulterior motives, for which they have no right. The plaintiff also contends that the original owner, Narayana Samy Gounder, was assigned patta in 1968 with a condition that it could not be modified or canceled after five years. As such, he was in possession of the property until 1989, when he sold it to Rathinambal, and neither the defendants nor their predecessors ever caused any interference. Hence, she filed the present suit against the four defendants, who are the appellants herein.

7. The 1st defendant filed a written statement, which was adopted by the other defendants, and all four contested the suit, asserting that neither the plaintiff nor her vendors had any right or title over the suit properties. They claimed that the plaintiff's alleged purchase would not bind them because the



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conditional patta in the name of Narayana Samy Goundar was canceled after due enquiry. According to the defendants, Narayana Samy Goundar had violated the terms and conditions of the assignment by leasing the land to M/s. East India Company for mining Gypsum. Consequently, the assignment was canceled as per proceedings initiated by the District Revenue Officer (DRO), Coimbatore, on 20.05.1979. Thereafter, the land reforms officials called for fresh applications and assigned the land to 5% to various persons on 09.05.1980.

8. Accordingly, the 1st defendant was assigned 2.11 acres in Survey No.119, and one Rukumani (the 1st defendant) was allotted 2.11 acres in Survey No.120/2 as per proceedings dated 18.01.1991. The remaining land, an extent of 10.57 acres, was allotted to six other persons, and possession was handed over to them on 17.03.1992 with conditions. Rukumani subsequently died, leaving the defendants 2 to 4, who have been in possession and enjoyment of the land. They paid land revenue to the local authorities up until 2005, without any interference. Through the Village Administrative Officer (VAO), they later discovered that the Tahsildar of Palladam had illegally



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changed the revenue records pertaining to the suit properties in favor of one Ramesh. However, no changes were made in the land reforms records since the assignment date on 18.01.1991.

9. The defendants became aware of the sale deed executed by Rathinambal and promptly filed a petition before the Assistant Commissioner of Land Reforms, Erode, to take steps to remove their names from the village revenue records. However, no action was taken, so they approached the Assistant Commissioner of Land Reforms in Chennai. Acting upon his directions, the Assistant Commissioner of Land Reforms instructed the Revenue Divisional Officer (RDO) to consider their representation. Consequently, the RDO conducted an enquiry on 04.05.2007 and issued an order stating that the sale transactions made after the cancellation of the assignment order dated 20.05.1975, as well as the issuance of patta in favor of Ramesh by the Tahsildar, were canceled. Against that order, the plaintiff preferred a revision before the DRO, Coimbatore. While the order of the RDO was under challenge, the present suit was filed.



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WEB COPY 10. In their defense, the defendants contended that the plaintiff's predecessors did not have a valid title over the suit properties and that she approached the court by suppressing various facts. The defendants asserted that they are the absolute owners of 4.22 acres of land as per the assignment. Therefore, they argued that the plaintiff's alleged purchase, including the said 4.22 acres, is invalid and does not bind them. They further stated that the plaintiff sold portions of the land to third parties, which included parts assigned to the defendants. The defendants claimed that the plaintiff has no right or title over the property and that she approached the court with false claims. Thus, they requested the court to dismiss the suit.

11. Before the trial court, both parties presented oral and documentary evidence. On the plaintiff's side, documents marked as Ex.A.1 to Ex.A.19 were submitted, and a witness named Murugan was examined as P.W.1. For the defense, the 1st defendant was examined as D.W.1, and another individual, Nesamani, was examined as D.W.2. The defense also submitted documents marked as Ex.B.1 to Ex.B.17.



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WEB COPY 12. The learned trial judge framed four issues based on the evidence presented, with the foremost issue being "whether the plaintiff is entitled to a declaration of title?". Another issue addressed was whether the plaintiff's vendor, Ramesh, had valid title to convey the suit property to the plaintiff. Notably, no issues were framed concerning the defense raised by the defendants about the cancellation of the assignment that originally stood in the name of the plaintiff's predecessor, Narayana Samy.

13. The defendants argued that the suit should be dismissed due to the non-joinder of necessary parties, contending that the plaintiff had sold portions of the land to third parties who were not included in the suit. Additionally, they claimed that the suit property was assigned to other individuals who were also not made parties to the proceedings. Despite this, the learned trial judge found that the defense's arguments on the non-joinder of necessary parties were not sustainable and therefore did not accept this issue as grounds for dismissal.



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14. Regarding the cancellation of the assignment in the name of the original assignee, Narayana Samy Goundar, the trial judge held that, according to the conditions annexed to the assignment, after five years had lapsed from the date of assignment, the authorities had no right to cancel the patta. The learned trial Judge noted that the authorities did not produce any relevant material to show that a proper enquiry was conducted prior to cancellation, nor was there proof that Narayanasamy was served with appropriate notice. Therefore, the trial judge concluded that the cancellation of the assignment on May 20, 1979, in the name of Narayana Samy was invalid under the law.

15. Based on these findings, the learned trial judge held that, per Ex.B6, possession of the property was with Narayana Samy, entitling him to sell the properties to Rathinammal on 19.09.1989. Subsequently, Ramesh purchased the property from Rathinammal, and the plaintiff acquired it from Ramesh. Consequently, the learned trial judge found that the plaintiff had a valid title and was in possession of the property. The plaintiff and her predecessors had possessed and enjoyed the entirety of the 10.57 acres of



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land for approximately 40 years, and after selling some portions, the remaining extent of 8.20 acres (the suit property) belonged to the plaintiff.

The Court thus decreed that the plaintiff was entitled to a declaration of title and a right of injunction.

16. Challenging the trial court's findings, the defendants filed A.S. No. 87 of 2011 before the learned II Additional District Judge, Tiruppur. The learned appellate judge reviewed the evidence and documents on record, ultimately agreeing with the trial court. The learned appellate judge held that Narayana Samy Goundar, the original assignee, was in possession and enjoyment of the entire extent of 10.57 acres, and there was no proof that he had violated the conditions by leasing out the land to a third party for gypsum extraction. Furthermore, there was no evidence that a proper enquiry had been conducted. Consequently, the cancellation order by the Land Reforms officials was deemed not binding on Narayana Samy or the plaintiff, especially as the alleged cancellation was executed by the authorities ten years after the assignment date.



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WEB COPY 17. The learned appellate judge found that Narayana Samy had sold the land to Rathinammal in 1989, and she was the absolute owner, meaning the defendants had no claim over the suit properties covering 4.22 acres. Accordingly, the trial court's findings were upheld, and the appeal was dismissed. The defendants have now filed this second appeal, challenging the concurrent findings.

18. The learned counsel for the appellants argues that the Courts below failed to consider that the original assignee, Narayanasamy Goundar, did not challenge the cancellation order from 1979. They contend that, after 30 years, the plaintiff has no locus standi to dispute the assignment cancellation. Moreover, the appellants argue that the defendants provided sufficient evidence of due enquiry before the cancellation, asserting that Narayanasamy violated conditions by leasing the land to the East India Company for gypsum escalation. They also claim that the cancellation order was properly served to Narayanasamy on 20.05.1979. However, this evidence, they argue, was not properly evaluated by the lower courts, which erroneously granted relief to the plaintiff as if her predecessors had valid title, making the judgment flawed



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and legally untenable and liable to be set aside.

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19. Further, the counsel contends that the reassignment of the land to the 1st defendant and others was proven by documents (Ex.B6 to Ex.B11 and Ex.B15), which were not adequately considered by the trial and appellate courts. Therefore, the findings of the lower courts should be set aside due to their failure to consider this relevant evidence.

20. Additionally, the counsel argues that the trial court lacked jurisdiction to entertain the suit concerning issues meant for the Land Reforms Act authorities. The appellate court also allegedly failed to properly consider these legal arguments, requiring intervention by this Court.

21. The appellants further contend that both courts erred in ruling that the cancellation of the assignment was invalid after five years, arguing that the authorities retain the power to cancel the assignment in cases of material irregularities, fraud, or misuse.

22. The second appeal was admitted on the following substantial



questions of law:

WEB COPY *"i. Whether the declaration of title granted to the plaintiff, who claims through Narayanasamy Goundar, is tenable given that he had no right or title to the suit lands per the cancellation order dated 24.05.1979?*

ii. Whether the judgments and decrees of the lower courts are liable to be set aside due to their failure to consider evidence under Ex.B6, Ex.B7, Ex.B15, Ex.B16, and Ex.B17?

iii. Whether the plaintiff's title claim and that of her vendors is tenable in light of Rule 9 of the Disposal of Surplus Land Rules?"

23. In reply, learned counsel for the respondent submitted that an extent of 10.57 acres, comprised in S.Nos. 98/2, 119, 120/1, and 120/2, was originally assigned to one Narayanasamy Gounder in 1968 under the Tamil Nadu Land Reforms (Surplus Land) Act. Thereafter, he maintained possession and enjoyment of the property. In 1998, he gave power of attorney to his brother, Arumugam, who subsequently sold the property to Rathinammal in 1999. Rathinammal later sold the properties to one Ramesh on 20.10.1993, and Ramesh, in turn, gave power of attorney to Thangaraj, from whom the plaintiff purchased the property for valid consideration on 19.02.2003. Over the years, the plaintiff's predecessors in title enjoyed



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uninterrupted possession of the entire 10.57 acres for nearly 40 years. After purchasing the property, the plaintiff sold a portion, retaining approximately 8.20 acres, which is now in her absolute possession. However, the defendants made false claims and raised objections before the revenue authorities.

24. The Tahsildar issued a patta in favor of the plaintiff's vendor, Ramesh. The defendants subsequently raised objections, and after due enquiry, the Revenue Divisional Officer (RDO) cancelled the patta. The plaintiff, however, appealed the cancellation through a revision before the District Revenue Officer (DRO), Coimbatore. On 05.09.2008, the DRO observed that an assignment could not be modified or canceled if more than five years had lapsed and remanded the matter for fresh disposal by the Assistant Commissioner of Land Reforms, Erode, setting aside the RDO's order. After due enquiry, the Assistant Commissioner again cancelled the patta. The parties subsequently approached the Assistant Commissioner of Land Reforms, and the plaintiff also filed a revision before the Land Reforms authorities.



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25. The title of the plaintiff remained in dispute, and it was argued that only a civil court has jurisdiction to determine the title. Therefore, the plaintiff approached the trial court to obtain a declaration over the suit properties. She also proved that her vendors' predecessors had a valid assignment and right over the properties and established that no proper enquiry was conducted before the alleged cancellation of the assignment. Consequently, the subsequent proceedings and the defendants' documents (Ex.B6-Ex.B15) were deemed irrelevant. Both the trial court and the first appellate court held that the procedure to cancel the assignment was flawed and invalid under law. Thus, the plaintiff's predecessor in title, Narayanasamy, held a valid title, as did subsequent purchasers, including the plaintiff. The trial court and the first appellate court rightly declared the plaintiff's title in respect of the suit properties, ruling that the alleged re-assignment to the defendants was not binding on her. Counsel, therefore, prayed for the appeal's dismissal as devoid of merit.

26. Considering submissions from both sides, it is evident that the land in dispute, originally assigned to Narayanasamy Gounder, spanned 10.57



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acres in Anupatti Village, encompassing Survey Nos. 98/2, 119/1, 120/1, and 120/2. This land, formerly owned by A.K. Vengatapathy Naidu, was declared surplus under the Madras Land Reforms Act of 1961 and subsequently acquired by the government. On 17.06.1968, an extent of 10.57 acres was assigned to Narayanasamy Gounder, son of Natchimuthu, with an F-patta under specific conditions, an undisputed fact in this case.

27. The plaintiff's case asserts that Narayanasamy Gounder held 10.57 acres and, in 1988, gave power of attorney to his brother Arumugam. Arumugam sold the properties to Rathinammal in 1989, and Ramesh, her vendor, subsequently purchased the property, which the plaintiff eventually acquired in 2003.

28. The defendants, however, contend that the original assignment in favor of Narayanasamy was canceled due to violations of the assignment's conditions, namely by leasing the land to East India Company for gypsum mining. After due inquiry, the assignment was canceled on 20.05.1979. Upon fresh application, the land was re-assigned to six individuals, including the



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first defendant and Rukmani (since deceased, leaving behind defendants D2 to D4). The entire extent of 10.57 acres was thus allocated to these six persons, who took possession on 17.03.1992. That being so, the plaintiff claims that prior to her purchase, she verified revenue records, which still reflected her vendor's and predecessors' names. She then approached the court seeking a declaration, arguing that she was a bona fide purchaser and that her vendors and predecessors held valid rights and titles to the suit properties.

29. Admittedly, the patta stood in the name of the plaintiff's vendor, Ramesh, per an order by the Tahsildar dated 05.07.2002. Following objections raised by the defendants, the RDO, Tiruppur, conducted an enquiry and cancelled Ramesh's patta on 04.05.2007, ordering its deletion from revenue records. The RDO cited the prior cancellation of Narayanasamy's assignment on 20.05.1979 as grounds for this decision, thus invalidating the power of attorney given to Arumugam in 1998 and subsequent sales, including the 1993 sale to Rathinammal, which later led to the plaintiff's purchase in 2003.



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30. The plaintiff challenged the RDO's order, and upon revision, the DRO raised various points, including whether the assignment could be cancelled if more than five years had lapsed. Since the assignment was made in 1968 and cancelled in 1979, the matter was remanded for a detailed enquiry, setting aside the DRO's order. After a new enquiry, the Assistant Commissioner of Land Reforms, Erode, submitted a report, and the RDO cancelled the patta transferred by the Tahsildar on 28.01.2009 (Ex.B7). The RDO further directed the parties to approach the Assistant Commissioner of Land Reforms since the land was subject to land ceiling proceedings. The plaintiff filed a revision before the DRO, Tiruppur, which was dismissed on 08.07.2010 (Ex.B16), affirming that the sales conducted after the assignment's cancellation were invalid.

31. A review of the DRO's order dated 08.07.2010 (Ex.B16) reveals that the Assistant Commissioner of Land Reforms, Erode, observed that Land Reforms No.K.DIS.6427/2002 dated 19.06.2002, a transfer order favoring Ramesh had been improperly obtained through abuse of process. Against this order, the plaintiff filed a revision under Rule 10(A)(5) of the Tamil Nadu



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Land Reforms (Disposal of Surplus Land) Rules, 1965. The Authorized Officer, Land Reforms, Coimbatore, had previously cancelled the assignment on 20.05.1979 under R.C.No.4815/78C.

32. Challenging the order passed by the Authorized Officer of Land Reforms, Coimbatore, the plaintiff filed a revision before the Land Commissioner. However, on 19.11.2010, the Land Commissioner, Chennai, dismissed the revision petition, stating:

“10. It is seen that the assignment was made on 17.06.1968. But during the year 1972, the original assignee Thiru Narayanasamy gounder had made an agreement with East India Mining Company for excavation of Gypsum in the lands assigned to him and excavation was made in the lands as evidenced from the statement of the then Karnam of the village. Since the above action of the assignee was in violation of condition No.6 of the Appendix to the assignment proceedings dated 17.06.1968, the Assistant Commissioner cancelled the assignment on the ground of violation of condition.

11. However, before going in to the merit of the case, I examined the question of admissibility of the Revision petition and accordingly, I find that the revision petitioner is the last



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purchaser of the Surplus lands in the year 2003 and she has no locus standi to question the order of cancellation passed in the year 1979 by the then Authorised Officer (L.Ref.) Coimbatore in the case of the original assignee Thiru. Narayanasamy Gounder on the ground of violation of condition that too, after a lapse of 31 years.”

33. Based on all the submitted documents, the appellants/defendants established that the assignment initially granted to the original assignee, Narayanasamy, was canceled in 1979. Subsequently, following a fresh application, a re-assignment was made to a 6% extent of the entire 10.57 acres, including the suit properties. From this area, the first defendant and one Rukmani, as legal heirs of defendants 2 to 5, each received 2.11 acres in S.No.119/2 and S.No.120/2 per the proceedings dated 18.01.1991. This assignment was finalized in their favor on 29.05.2007, as the previous assignees, Subban and Thittan, had not taken possession of the lands. The proceedings were marked as Ex.B11, showing that after the cancellation of Narayanasamy Gounder's assignment, the land was re-assigned in 1980.



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34. The learned counsel for the respondents argued that the cancellation of the patta assignment was not properly served to the original owner, Narayanasamy. However, the defendants clarified this by presenting D.W.2, the Special Inspector of Land Reforms, as a witness. Based on the evidence, D.W.2 testified that an extent of 10.50 acres was assigned to Narayanasamy on 10.07.1968, and later cancelled on 20.05.1979 due to violations of the assignment conditions. He further testified that Narayanasamy received the cancellation order on 20.05.1979. The plaintiffs challenged D.W.2's testimony, arguing that no acknowledgment card was produced to show that the cancellation order was properly sent to Narayanasamy. However, as rightly pointed out by the appellants' counsel, the plaintiff, who purchased the properties nearly 20 years after the alleged cancellation, could not contest the order. If there had been an issue with the procedure, only Narayanasamy or his legal heirs would have had the standing to dispute it. Given that almost 40 years have passed without objection from Narayanasamy's side, the Land Reforms Commissioner correctly held that the plaintiff lacks standing to contest the cancellation, as they acquired the property after it had been canceled. Moreover, the Courts below erroneously



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ruled that the authorities had no right to cancel the assignment after a lapse of five years and declared the cancellation as invalid. Thereby, the title of Narayanasamy was upheld by the Courts below is totally erroneous. The trial court and the first appellate court, however, did not frame proper issues regarding the cancellation of Narayanasamy's assignment and gave findings without establishing such issues, which is procedurally incorrect.

35. The learned counsel for the plaintiff pointed to revenue records, marked as Ex.A10 to Ex.A13, showing that these records listed Narayanasamy as the titleholder. However, patta, chitta, and adangal revenue records do not confer title, they merely indicate revenue collection purposes. Therefore, the plaintiff's claim of title based on these documents is unsustainable, and the Courts below erred in considering these records as evidence of title.

36. Furthermore original assignee violated the conditions of



assignment of surplus lands. Tamil Nadu Land Reforms (Disposal of Surplus land) Rules, 1965, in which speaks as follows.

" 9.Conditions of assignment:- (1) *The assignment of land shall be, subject to the following conditions; namely:-*

(i) The land assigned shall not be sold or otherwise alienated [before the expiry of the period specified in sub-clause (a) of clause (iii) below;]

(ii).....

(iii) (a) The land will vest absolutely in the assignee only after the value of the land and the buildings and trees thereon is paid [in full or after the expiry of a period of twenty years from the date of assignment which ever is later.]

(iv) The assignee shall engage himself in the direct cultivation of the land assigned;

(2) Where any violation of the conditions of assignment as prescribed in sub-rule (1) of in the deed of assignment in Form F is noticed, the assigning authority shall cancel the assignment:

Provided that no such cancellation shall be ordered without giving the assignee an opportunity to make his representation.

10.Appeals:- (1) *Any person aggrieved by the orders of the assigning authority under sub-rule (4) of rule 8 may, within thirty days from the date of such order, appeal to the appellate*



authority. In computing the period of thirty days, the day on which the order appealed against was pronounced or communicated and the time required for obtaining a certified copy of that order, shall be excluded. On all copies issued, the date of the order, the date on which the copy was ready for delivery shall be entered. The court fee payable in respect of an appeal shall be one rupee:

Provided that the appellate authority may, in his discretion, allow further time not exceeding thirty days for the filing of any such appeal if he is satisfied that the appellant had sufficient cause for not preferring the appeal within the period specified in this rule.

(2) No appeal shall be admitted unless accompanied by certified copies of the order or orders appealed against.

(3) On receipt of an appeal, the appellate authority may, after giving the parties a reasonable opportunity of being heard, pass such orders as he deems fit.

10(A). Appeals:-

(5) If in a case where no appeal has been presented under rule 10-A, at the time within five years of the date of the order passed under rule 9(2), the appellate authority is satisfied that there has been a material irregularity in the procedure or that the order was grossly inequitable or that it was passed under a mistake of fact, he may set aside, cancel or



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in any way modify the order."

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37. The appellants submitted that after the assignment, Narayanasamy leased the land to a private party for gypsum extraction and did not pay the full value. Since Narayanasamy violated the assignment conditions by encumbering the property within the restricted period, the authorities were entitled to cancel it. However, the Courts below erroneously held that, under the 15-year rule from the Tamil Nadu Land Reforms Act of 1965, land assigned could not be sold or cancelled. Even assuming that Narayanasamy violated the rule by leasing the land within 10 years, the authorities still had the right to cancel the assignment. Therefore, after the 1979 cancellation, Narayanasamy had no title to the property, moreover he has not prepared appeal within prescribed period as rules.

38. Furthermore, the plaintiff who is 3rd party not legal heir of Narayanasamy has no locus standi to challenge the cancellation after approximately 40 years, as rightly observed by the land Commissioner of land reforms. Appeal also not filed within time by assignee. Therefore, the



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plaintiff's predecessors, including Narayanasamy, have no right or title over the suit lands following the cancellation of assignment dated 24.05.1979.

This lack of entitlement has been established by the appellants through relevant documents, as discussed above. However, both the Courts below failed to properly consider the oral and documentary evidence provided by the appellants and erroneously granted a declaration of title in favour of the plaintiff, which is liable to be set aside. Accordingly, the first question of law is answered.

39. On considering Ex.B6, Ex.B7, Ex.B15, Ex.B.16 and Ex.B17, the appellants have proved that the plaintiff's vendor has no right or title over the suit properties. However, this evidence was not properly appreciated by the Courts below. Due to the non- consideration of these documents, the findings of the Courts below are liable to be set aside. Accordingly, the second question of law is answered.



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40. As per the Rule 9 of Tamil Nadu Land Reforms Act 1965, the title claimed by the plaintiff under the vendor's contrary remains free of encumbrances for 15 years from the date of assignment. However, proceedings initiated by the Land Reform authorities indicated that Narayanasamy had leased the property to East Indian Company for gypsum extraction, immediately after the assignment which is a violation of above rules. Consequently, the concerned authorities were entitle to cancel the assignment, and this action cannot be contested by the plaintiff, who lacks locus standi, given that approximately 40 years have passed since the said cancellation. Accordingly, the question of law 3 is answered.

41. At the end of the arguments, the learned counsel for the appellant also submitted that the jurisdiction of the Civil Court is barred. However, this issue was not raised before the Courts below. At the end of the proceedings, he raised question of the Civil Court's jurisdiction, but it was not raised as one of the grounds. At this stage, this Court not inclined to decide the issue of the Civil Court's competence.



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42. Accordingly, the appeal is allowed, and the findings rendered by the Courts below are set aside. Consequently, the suit is dismissed as being without merit. The direction is given to the relevant authorities to take possession of the property from the plaintiff by removing any windmills or other encroachments erected on the suit land. This decision was previously challenged via W.P.No.27805 of 2010 but was closed due to the pendency of this second appeal. This Court finds that neither the plaintiff nor their predecessors have any valid title to the suit properties. So they are deemed to be encroachers.

43. The alleged purchase of the suit properties by the plaintiff is thus deemed illegal and invalid under the law, and does not bind the defendants. Therefore, the plaintiff is deemed to be encroacher, and the authorities are empowered to remove the encroachment in the manner known to law.

44. With these directions, the second appeal is allowed. Thus, suit



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dismissed as no merits. From 2008 onwards, the plaintiff has maintained unlawful possession. The authorities are directed to remove the encroachment within three months of this order. No costs.

12.11.2024

Index : Yes/No
Speaking Order: Yes/No
Nutral citation: Yes/No

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To

1. The II Additional District and Sessions Judge, Tiruppur.
2. The Subordinate Judge, Tiruppur,
- 3.The Section Officer, VR Section,
High Court of Madras.



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T.V.THAMILSELVI, J.

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