



W.P.Nos.30071 of 2018 & 19952 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **05.01.2024**

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P.Nos.30071 of 2018 & 19952 of 2022

and

WMP.Nos.35084, 35086, 35087 & 19248 of 2022 & 3514 of 2023

In W.P.No.30071 of 2018 :

S.Meena @ Meenambigai

... Petitioner

Versus

- 1.The District Collector,
Tiruppur,
Tiruppur District.
- 2.The Sub-Collector,
Tiruppur,
Tiruppur District.
- 3.The Revenue Divisional Officer,
Tiruppur,
Tiruppur District.
- 4.The Assistant Commissioner, (Land Reforms)
Gandhiji Road,
Jawans Bhavan, 2nd Floor,
Erode.
- 5.The Tashildar,
Tiruppur (South),
Tiruppur District.



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6.The Village Administrative Officer,
Veerapandi Village,
Tiruppur District.

7.Selvaraj

8.Kanagaraj

9.Peedan ... Respondents
[R7 to R9 impleaded vide order
dated 23.06.2021 made in WMP.NO.19261/2019.]

In W.P.No.19952 of 2022 :

Tmt. Meena @ Meenambigai ... Petitioner

Versus

1.The Principal Secretary/The land Commissioner,
Commissioner of Land Reforms,
Chepauk, Chennai – 5.

2.The District Collector,
Tiruppur.

3.The Revenue Divisional Officer,
Tiruppur.

4.The Tashildar,
Tiruppur (South),
Tiruppur.

5.The Village Administrative Officer,
Veerapandi Village,
Tiruppur District.

6.D.Selvaraj

7.Kanagaraj (Deceased)



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WEB.COM 8.Peedan

9.K.Rajeshwaran

10.K. Rajeshwaran

11.P.Anandan

12.A.S.Maniyam

13.P.Kumar

14. Suseela

15.K. Mohan

16.Robert

[R14 to R16 are substituted as LR's of the deceased R7,
viz.,C.Kanagaraj, as per order dated 08.12.2023 in
WMP.No.25023 of 2023]

... Respondents

PRAYER in W.P.No.30071 of 2018 : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for the records of impugned order dated 29.08.2018 passed by the second respondent vide proceedings in Na.Ka.No.675/2018/A2 and quash the same.

PRAYER in W.P.No.19952 of 2022 : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for the records of the first respondent in the impugned proceedings No.D1/SMRP No.1/2018 [L.Ref.] dated 19.05.2022 and



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quash the same as illegal, arbitrary, and contrary to the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965.

Appearance in W.P.No.30071 of 2018:

For Petitioner : Mr. K. Myilsamy
For Respondents : Mrs. V. Yamunadevi,
Special Government Pleader (for R1 to R6)
: Mr. V. Karthikeyan,
for Mr. V. Nicholas (for R7 to R9)

Appearance in W.P.No.19952 of 2022:

For Petitioner : Mr. V. Jayaprakash Narayanan
For Respondents : Mrs. V. Yamunadevi,
Special Government Pleader (for R1 to R5)
: Mr. R. Prabakar (for R6, R8, R14 to R16)
: Not ready in notice (for R7, R9 to R13)
: Dr. S. S. Swaminathan (for R12)

COMMON ORDER

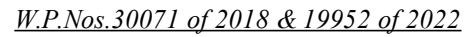
These Petitions are filed seeking issuance of writ of certiorari, challenging the impugned order dated 29.08.2018 passed by the second respondent in W.P.No.30071 of 2018, vide proceedings in Na.Ka.No.675/2018/A2, and challenging the proceedings No.D1/SMRP No.1/2018 [L.Ref.] dated 19.05.2022 of the first respondent in W.P.No.19952 of 2018.



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2. Brief facts of the case are that the case revolves around a piece of land in Veerapandi Village, Vanjipalayam, Trippur, originally owned by Mr.Sivasubramaniam, declared as surplus land by the Tamil Nadu Government in the year 1985. The respondents 6 to 13 herein were initially assigned portions of this land, since the respondent 6 to 13 did not cultivate the lands, the said assignment was cancelled and the petitioner was assigned 1.22 acres of land in the year 1995. Subsequently, from 1) Prabhakaran, 2) Hemalatha, and 3) Smt. Meenakumari lands were also acquired from each of them of an extent of 1.22 acres in S.No.64/1B and they have been doing cultivation. After a period of 20 years, the petitioner had purchased the lands from the said Prabhakaran & others assigned to them by a registered sale deed and Ayan Patta was obtained in her favour. However, in the year 2018, the said Patta was cancelled by the authorities without prior notice to the petitioner. Challenging the same, earlier the petitioner had filed a writ petition in W.P.No.30071 of 2018 before this Court and obtained an order of interim stay on 15.11.2018 of further operation of the cancellation order. But, the first respondent had taken suo-motu revision and passed the impugned order dated 19.05.2022 and cancelled the assignment order issued in favour of the petitioner and three



3. The learned counsel for the petitioner submitted that the agricultural land ad-measuring an extent of 4.87 acres comprised in No.64/1B situated in Veerapandi Village, Vanchipalayam, Tiruppur, was originally belonged to one Mr. Sivasubramaniam. The writ petitioner is the wife of the above said Mr. Sivasubramaniam. The said lands were declared as surplus lands by Government of Tamil Nadu, under the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965, and in or about the year 1989. Originally, the surplus land was allotted to allottees No.6 to 13 each ad-measuring an extent of 0.61 acres for agricultural purpose. Under the assignment deed dated 11.03.1985, three conditions have been stipulated. The first condition is that the assignee shall pay the consideration for the assignment land within the stipulated period. The second condition is that assignee shall not alienate or encumber the land in future for a period of 20 years from the date of assignment. The third condition is that assignee shall not enter into the possession of the land



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immediately and there has to be continuously cultivation of the land.

4. The learned counsel for the petitioner further submitted that, since, respondents No.6 to 13 did not enter into the possession of the property and not paid the assigned consideration fixed for the assigned land, the competent authority, under the Act, had cancelled the deed of assignment, after following the due process as contemplated under the above said Rules. As against the said cancellation order, no appeal was preferred by respondents No.6 to 13 under Section 10-A of the above Rules. Therefore, the cancellation of assignment order dated 05.04.1995 had attained finality. Thereafter, the competent authority, after following the procedures, had re-assigned the agricultural land, ad-measuring 1.22 acres in favour of the petitioner and 1) Prabhakaran, 2) Hemalatha, and 3) Smt. Meenakumari, each under assignment deed dated 08.06.1995 and the assignees have also paid the land costs fixed by the Government and cultivated the land without any interruption and complied with the conditions mentioned in the assignment order and became the absolute owner of the property.



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5. The learned counsel for the petitioner further submitted that, after the stipulated period of 20 years, the petitioner had purchased the property from the said Mr. Prabhakaran & others and assigned to them and obtained Ayan patta in her favour. When the petitioner approached the Sub-Registrar Office for encumbrance certificate, she came to know that the Sub-Collector, Tiruppur had cancelled the Ayan Patta which stood in her name, by order dated 29.08.2018, vide Na.Ka.No.675/2018/A2, without issuing any notice to the petitioner. The petitioner had challenged the said cancellation order before this Court in W.M.P.No.35087 of 2018 in W.P.No.30071 of 2018 and obtained interim stay of further proceedings of the said order, on 15.11.2018. While so, the first respondent had chosen to exercise his power for *suo motu* revision and issued a show-cause notice dated 25.01.2019 and the same was received by the petitioner on 01.02.2019. On receipt of the same, the petitioner has submitted the detailed explanation dated 23.02.2019 to the first respondent. The first respondent got *suo motu* revision power under Rule 11 of the Tamil Nadu Land Reforms (Disposal of Surplus) land, Rules, 1965, against the order passed the assigning authority, either on the application made by the appellate authority, or on its own motion and such power must be exercised



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within five years from the date of receipt of the order passed by the assigning authority. After five years, the first respondent has no power to entertain such revision power. Without any jurisdiction, the first respondent has passed the impugned order dated 19.05.2022, cancelling the order of assignment issued in favour of the petitioner and three other assignees on 05.04.1995, after a period of 27 years, which is *prima facie* illegal and liable to be set aside.

6. Therefore, the petitioner challenged earlier the order passed by the Sub-Collector in the Writ Petition in W.P.No.30071 of 2018 and subsequently, pending the writ petition, the first respondent in another case in Writ Petition No.19952 of 2022, took a *suo motu* revision and passed the order and therefore, challenging the said impugned order passed by the first respondent, the said Writ petition No.19952 of 2022 was filed. The impugned order has to be set aside.

7. The respondents No.1 to 5/Official respondents filed their counter affidavit, stating that the surplus land to an extent of 4.87 acres was originally assigned to respondent 6 to 13 herein, vide assignment order



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dated 11.03.1985 and the same came to be cancelled by the Assistant Commissioner (L.Ref.) Coimbatore on 05.12.1994 i.e, before the condition period of 20 years, for the reason that the assignees have not cultivated the lands assigned to them for a longer period of time, based on the statement of the Village Administrative Officer, Veerapandi Village, who verified the Adangal extract for the Fasli year 1403.

8. It is further stated in the counter affidavit that based on the application made by the petitioner, the said surplus land of an extent of 4.87 acres, was re-assigned by the authority concerned Assistant Commissioner, to the petitioner and three benami of the petitioner on 05.04.1995. The writ petitioner has fraudulently obtained the assignment of surplus land by suppressing the fact that the agricultural land was held by her husband, namely Sivasubramaniam and got back the assigned lands from the said three benamis in the year 2016.

9. It is also stated in the counter affidavit that based on the petition submitted by the original assignees Mr. Selvaraj & 2 others, the Sub Collector, Tiruppur, has recommended for taking up the case under the



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suo-motu power vested with the Land Commissioner under Rule 11(3) (b) of the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965, and issued show-cause notice dated 25.01.2019 to the assignees viz., petitioner and three others. The petitioner has submitted his reply on 25.02.2019 stating that she has filed a writ petition in W.P.No.30071 of 2018 before this Court as against the cancellation order dated 29.08.2018 passed by the Sub Collector, Tiruppur and obtained interim stay.

10. It is further stated in the counter affidavit that petitioner has filed another writ petition in W.P.No. 8932 of 2021 before this Court challenging the *suo-motu* Revision Petition dated 25.01.2019. This Court, by order dated 23.04.2021, directed the Commissioner of Land Reforms to pass suitable orders on merits. Based on the records, the Land Commissioner has set aside the cancellation order dated 05.12.1994 and re-assignment order passed by the Assistant Commissioner (L.Ref) Coimbatore dated 05.04.1995 and confirmed the original assignment order dated 11.03.1985 made in favour of the respondents 6 to 13. According to the learned Additional Advocate General appearing for the respondent-Department, the impugned order passed by the Land Commissioner is



perfectly valid and does not require any interference by this Court.

11. Heard the learned counsel for the petitioners and the learned Additional Advocate General appearing for the official respondents and the learned counsel appearing on behalf of the private respondents and perused the materials available on record.

12. The primordial contention of the petitioner is that as per Rule 11(3) (b) of the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965, the 1st respondent has only power to initiate the suo moto revision, within a period of five years from the date of the order passed by the assigning authority. Therefore, the impugned order passed by the first respondent dated 19.05.2022 is liable to be quashed and the order of assignment dated 05.04.1995 in favour of the petitioners has to be restored. In support of his contentions, the learned counsel for the petitioner has placed reliance on the following judgments:-

(i) In ***Pundlik Jalam Patil (Dead) by Lrs., Vs. Executive Engineer, Jalgoan Medium Project and Anr.***, reported in ***(2008) 17 SCC 448***;



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(ii) In *State of Punjab and Ors., Vs. Bhatinda District Cooperative Milk Producers Union Ltd.*, reported in (2007) 11 SCC 363;

(iii) In *Santhoshkumar Shivgonda Patil and Ors., Vs. Balasaheb Tukaram Shevale and Ors.*, reported in (2009) 9 SCC 352;

(iv) In *K.S. Arjun and Ors., Vs. The Assistant Commissioner (Land Reforms), Erode and Ors.*, reported in (2010) SCC OnLine Mad 1589;

(v) In *K.Desikan Vs. State of Tamil Nadu and Ors.*, reported in (2013) 5 Mad LJ 53;

(vi) In *Indian Aluminium Company Ltd., Vs. Thane Municipal Corporation* reported in 1992 Supp (1) SCC 480;

(vii) In *B.Ramadoss Vs. Land Commissioner, 'Ezhilagam', Chepauk* reported in 1990 SCC Online Mad 1013 : 1990 Writ LR 427;

13. Now the core question which required to be answered by this

Court is that:-

“ Whether the *suo-motu* revision taken up by the first respondent in the present case, is valid or not under Rule 11(3)(b) of the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965?”



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14. For better understanding, Rule 11(3)(b) of the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965 is extracted below:-

“ Rule 11(3)(b) :

The Land Commissioner may, at any time, of his own motion, within a period of five years from the date of the order of assignment or the date of order of the appellate authority, as the case may be, set aside, cancel, revise or in any way modify the order of assignment or the order of appeal or revision or issue such directions as he may deem fit, if he is satisfied that the order was grossly inequitable. If he is satisfied that there has been a material irregularity in the procedure or that the order was passed under a mistake of fact or owing to fraud or misrepresentation or that the assignee is not eligible for assignment or that the extent assigned together with other lands, if any, held by the assignee or the members of his family other than a co-operative society exceeds the limits specified in sub-rule(2) of rule 5, he may exercise such powers without any limit of time. He may also issue such directions as he may deem fit even while the proceedings are in progress before the assigning authority or the appellate authority.]....”

15. Admittedly, the land was declared as “surplus land” under the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961, and therefore, the same was assigned to the respondents No.6 to 13 on 11.03.1985 and they were in possession and enjoyment of the land. Subsequently, the same was re-assigned to the petitioner and three others



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and though the Patta was granted, later it came to be known that the petitioner is the wife of Mr.Sivasubramaniam. In order to grab the surplus land, they managed with the land officials and got cancelled the assignment order in favour the respondents No.6 to 13 as if they were not cultivating the land. The petitioner also created a stage drama as if she is a landless poor lady and she set up three other benamis and got the land from the three other benamis. Therefore, subsequent assignee of the petitioner and three others are family members of the original land holders and also benomis who are the driver and workers of the said family. Even earlier, the original assignment order in favour of respondents Nos.6 to 13 was cancelled without conducting any enquiry, even without sending any notice to them and without even conducting any field inspection and simply they cancelled the assignment based on the statement given by the Village Administrative Officer of the said village after verification of the only one Fasli 1403 and thereafter, the first respondent initiated *suo motu* revision under Rule 11(3) (b) of the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965 .



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16. A mere reading of the impugned order clearly shows that no enquiry was conducted prior to the cancellation of the original assignment order of the assignees/respondents Nos.6 to 13. Further, it is also proved from the records that the petitioner is the wife of the said Mr.Sivasubramaniam who is the original land owner and from whom the land was taken as excess land and declared as surplus land and the same was assigned to respondents Nos.6 to 13 in the year 1985 by the Government. Further, the petitioner committed fraud by misrepresenting her family members and worker of her family as benamis and got back the surplus land. If this attitude is encouraged, the provisions of Land Reforms Act themselves would be defeated.

17. Further, Rule 11(3)(b) of the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965, clearly stipulates that if any fraud or misrepresentation or any other power other than the power of *suo motu* revision is available even beyond the period of five years.

18. In view of the above discussion, it is clearly proved that the petitioner had committed fraud in obtaining surplus lands from the



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Government.

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19. The citations referred to by the learned counsel for the petitioner in support of his contentions, are not applicable to facts of the present case on hand. Therefore, the contentions of the learned counsel for the petitioner cannot be countenanced and the same are liable to be rejected. This Court finds no perversity in the impugned order passed by the first respondent.

20. Under such circumstances, this Court finds that the petitioner is not entitled for the relief sought for in the writ petitions. The Writ Petitions are dismissed. No costs. Consequently, the connected miscellaneous petitions are also closed.

05.01.2024

Index : Yes/No
Speaking order : Yes/No
Neutral Case Citation : Yes/No

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