



W.A(MD).Nos.216 to 219 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 29.02.2024

PRONOUNCED ON : 25.03.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.A(MD).Nos.216 to 219 of 2022
and
CMP(MD).Nos.2100, 2101, 2102, 2103,
2104, 2105,2106 and 2107 of 2022**

W.A(MD).No.216 of 2022

M.Mohanalakshmi

...Appellant/Petitioner

Vs

**1.The District Collector
Trichy District, Trichy**

**2.The District Revenue Officer Cum
Additional District Magistrate
Trichy, Trichy District**

**3.The Revenue Divisional Officer
Trichy, Trichy District**

**4.The Tahsildar
Trichy East
Trichy District**

5.R.Sekar @ Rajasekar

6.R.Mohankumar



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7.R.Karthikeyan

8.R.Balachandran

....Respondents/Respondents

W.A(MD).No.217 of 2022

R.Sekar @ Rajasekar

....Appellant/Petitioner

Vs

1.The District Collector
Trichy District, Trichy

2.The District Revenue Officer Cum
Additional District Magistrate
Trichy, Trichy District

3.The Revenue Divisional Officer
Trichy, Trichy District

4.The Tahsildar
Trichy East
Trichy District

5.R.Balachandran

...Respondents/Respondents

W.A(MD).No.218 of 2022

R.Mohankumar

...Appellant/Petitioner

Vs

1.The District Collector
Trichy District, Trichy

2.The District Revenue Officer Cum
Additional District Magistrate
Trichy, Trichy District

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Trichy, Trichy District



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4.The Tahsildar
Trichy East
Trichy District

5.R.Balachandran

...Respondents/Respondents

W.A(MD).No.219 of 2022

R.Karthikeyan

...Appellant/Petitioner

Vs

1.The District Collector
Trichy District, Trichy

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Additional District Magistrate
Trichy, Trichy District

3.The Revenue Divisional Officer
Trichy, Trichy District

4.The Tahsildar
Trichy East
Trichy District

5.R.Balachandran

...Respondents/Respondents

Prayer in WA(MD).No.216 of 2022: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 27.01.2022 in W.P(MD).No.7288 of 2021.

Prayer in WA(MD).No.217 of 2022: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 27.01.2022 in W.P(MD).No.7696 of 2021.



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Prayer in WA(MD).No.218 of 2022: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 27.01.2022 in W.P(MD).No.7697 of 2021.

Prayer in WA(MD).No.219 of 2022: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 27.01.2022 in W.P(MD).No.7698 of 2021.

For Appellants : Mr.P.Thiagarajan
For Mr.R.Ponkarthikeyan
in WA.No.216 of 2022

: Mr.M.Saravanan
in WA.Nos.217 to 219 of 2022

For R1 to R4 : Mr.J.Ravendran
Additional Advocate General
Assisted by Mr.T.Amjadkhan
Government Advocate in all the writ appeals

For R5 to R8 : No appearance in WA.No.216 of 2022

For R5 : No appearance in WA.Nos.217 to 219 of 2022

COMMON JUDGMENT

(Made by **R.VIJAYAKUMAR,J.**)

The petitioners in four writ petitions have filed the above writ appeals challenging a common order passed by the writ Court on 27.01.2022. The petitioners had challenged an order dated 08.02.2021 passed by the District Revenue Officer, Trichy wherein the order of assignment granted in favour of



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these petitioners was cancelled.

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2.The writ Court after considering the submissions made on either side, had dismissed all the writ petitions. Challenging the same, the present writ appeals have been filed.

(A).Factual Matrix:

3.The parties are referred to as per their array in the writ petitions.

4.The writ petitioners are the daughter and three sons of one Rajappa who was granted an assignment of land measuring 0.96.5 Hector of land in Survey No.185/1 under Dharkast No.140/83 in Kottappattu Village, Trichirappalli East Taluk, Trichirappalli District. Another order of assignment has been granted to one of the sons of Rajappa namely Balachandran in Survey No.185/1 for an extent of 0.96.5 Hector under Dharkast No.154/83. On the same day, another assignment was granted in favour of another son namely Sekar @ Rajasekar for an extent of 0.62.0 Hector under Dharkast No. 148/83 in Survey No.185/3. Based upon a complaint lodged by one of the sons of Rajappa namely Balachandran, the Tahsildhar Trichy East had addressed a communication to the District Revenue Officer, Trichirappalli on 30.11.2020 for cancellation of these assignment orders.

5.Based upon the above said communication, the District Revenue Officer, Trichy had sent notice to all the legal heirs of Rajappa on 04.12.2020 fixing the date of hearing as 14.12.2020. The writ petitioners have appeared



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before the District Revenue Officer and made a request for furnishing a copy of the complaint said to have been lodged by the said Balachandran.

According to the petitioners, the enquiry was adjourned to 08.02.2021 but, they were not furnished with a copy of the complaint. Without conducting any enquiry, the order impugned in the writ petitions was passed on 02.03.2021 cancelling the patta and also the order of assignment granted in favour of the father and the two sons.

6. According to the petitioners, one of the brothers namely Balachandran who had developed enmity had initiated a civil suit for partition and therefore, on his complaint, these proceedings should not have been initiated. Various reasons have been assigned in the impugned order for cancelling the order of assignment. However, a copy of the complaint said to have been lodged by the said Balachandran has not been furnished. Hence, they have filed these four writ petitions challenging these orders.

7. The writ Court after going through the merits of the allegation and the counter allegation, had arrived at a finding that it is a bogus order of assignment said to have been issued to ineligible persons belonging to a single family. The petitioners having enjoyed the property for more than 50 years, cannot now rely upon the non-granting of opportunities as violation of principles of natural justice. When the order of assignment is bogus, the authorities are always at liberty to proceed in accordance with law. Based



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upon these observations, the writ Court had dismissed the writ petitions.

Challenging the same, the present appeals have been filed.

(B) Contentions of the learned counsel appearing for the parties are as follows:

8.The learned counsel for the writ petitioners/ appellants had contended that they were not furnished with a copy of the complaint despite requests were made by them. Without conducting any enquiry, serious allegations have been made as against the writ petitioners and their father as if an order of assignment has been granted in favour of two minor sons. Without properly verifying the records, the authorities have contended that the files are missing. Based upon presumption, the writ Court has passed the order that the order of assignment itself is bogus. When such a serious allegation having grave civil consequences is made, proper opportunities should have been granted to the writ petitioners to explain their stand. The writ Court was not right in observing that the granting of an opportunity would be an empty formality on the presumption that the order of assignment itself is bogus. Hence, he prayed for setting aside the order of writ Court and the order impugned in the writ petitions.

9.Per contra, the learned Additional Advocate General appearing for the respondents had contended that the files relating to the order of assignment are missing from the office of the Tahsildhar. That apart, a perusal



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of the age of two assignees would clearly reveal that at the time of order of assignment they were minors. The petitioners were granted ample opportunities to defend themselves during the enquiry proceedings. In fact, one of the writ petitioners had deposed before the District Revenue Officer. The grandson of G.Rajappa namely B.Gowtham Arun, Son of Balachandran had also deposed that the order of assignment is not legal. Therefore, based upon the records and the deposition of the parties concerned, after giving due opportunity to all the parties, the order impugned in the writ petitions has been passed. The writ Court has rightly found that the original order of assignment in favour of the writ petitioners is untraceable and therefore, it should only be a bogus order of assignment. When the order of assignment itself is bogus, the question of granting a detailed hearing to the alleged beneficiaries would not arise. Hence, he prayed for sustaining the order passed by the writ Court.

10. We have carefully considered the submissions made on either side and perused the material records.

(C).Discussion:

11. One Rajappa son of Govindasamy and his two sons namely Balachandran and Sekar @ Rajasekar have been granted order of assignment on 10.04.1974. After a period of 45 years, one of the assignees namely Balachandran had lodged a complaint before the Tahsildhar, Trichy East



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alleging that a patta has been erroneously granted based upon the fake assignment order in favour of the writ petitioners.

12.A perusal of the impugned order reveals that the Tahsidhar has addressed a communication to the District Revenue Officer, Trichy that Dharkast Nos.140/83, 148/83 and 154/83 are not traceable in the record room. He had further submitted that they are tracing the said documents in the record room of Trichy West Tahsildhar Office. Based upon this communication, the District Revenue Officer, Trichy had arrived at a finding that the files relating to issuance of assignment order are missing and as a consequence, they should be bogus orders of assignment. In fact, the report of the Tahsildhar as reflected in the order impugned in the writ petitions does not reveal that they are bogus assignment orders. He had only stated that they are not traceable in the Trichy East Office and they are searching for the same in Trichy West Office. Therefore, finding of the District Revenue Officer that they are bogus documents is merely based upon presumption.

13.The District Revenue Officer, Trichy in his impugned order has pointed out that on the same day namely on 10.04.1974, three assignment orders have been granted to the members of the single family. Out of the said three assignment orders, two of them have been issued in favour of minors. It is not known how the age of the assignees at the time of assignment was arrived at by the District Revenue Officer, Trichy. Probably, he had relied



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upon some fact alleged in the complaint lodged by another son of Rajappa namely Balachandran. It is an undisputed fact that the said complaint lodged by Balachandran, based upon which the present impugned order has been passed, has not been furnished to the writ petitioners. Therefore, the said issue requires to be investigated after hearing the beneficiaries.

14.The District Revenue Officer, Trichy has proceeded to cancel the patta granted in favour of the writ petitioners on the ground that the orders of assignment are bogus in nature. Therefore, without hearing the aggrieved parties or conducting an enquiry, such an order cannot be passed.

15.The writ Court had gone into the merits of the order passed by the District Revenue Officer, Trichy and has arrived at a categorical finding that the orders of assignment are bogus in nature and therefore, the question of granting opportunity to them to defend themselves would only be an empty formality.

16.As pointed out supra, the allegation of bogus assignment is only a presumption and not a categorical finding, in view of the fact that the Tahsildhar has stated in his communication that they are tracing the records in the other office. In fact, the allegations made against the writ petitioners are so serious in nature, having grave civil consequences, especially the allegation relating to bogus order of assignment. Therefore, furnishing of the copy of the complaint, granting time to submit their explanation and



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conducting an enquiry are very much essential before arriving at such a finding having serious consequence. In fact, the writ Court had even gone to the extent of making an observation that there was a fraud and collusion in the grant of order of assignment. Therefore, it is clear that without granting sufficient opportunity to the writ petitioners, such a finding cannot be rendered either by official respondents or by the Court based on presumption.

(D).Conclusion:

17.In view of the above said facts, this Court is inclined to pass the following order:

(i).The orders impugned in the writ petitions are set aside and remitted back to the file of the District Revenue Officer, Trichy for fresh consideration.

(ii).The District Revenue Officer, Trichy is directed to furnish a copy of the complaint said to have been lodged by one Balachandran to the writ petitioners within a period of four weeks from the date of receipt of a copy of this judgment.

(iii).The writ petitioners are directed to file their written objections, if any, within a period of four weeks thereafter.

(iv).The District Revenue Officer, Trichy is directed to conduct a personal hearing and proceed to pass orders on merits and in accordance with law, uninfluenced by any one of the



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observations made in the writ petitions or in the appeals.

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(v).The said exercise shall be completed within a period of six months from the date of receipt of a copy of this judgement.

18.The writ appeals are allowed to the extent as stated above. No costs.

Consequently, connected miscellaneous petitions are closed.

(D.K.K.J.,)

(R.V.J.,)

25.03.2024

Index :yes

Internet :yes

NCC : Yes/No

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**D.KRISHNAKUMAR, J.
AND
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