



W.P.(MD)No.12491 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2024

CORAM:

THE HONOURABLE **MR.JUSTICE G.K.ILANTHIRAIYAN**

W.P.(MD)No.12491 of 2024

and

W.M.P(MD)Nos.11138,11140 & 11141 of 2024

and

W.M.P(MD)No.25120 of 2024

P.Jayakumar

... Petitioner

/Vs./

- 1.The Commissioner of Land Administration,
Ezhilagam,
Chepauk,
Chennai.
- 2.The Assistant Commissioner,
(Land Reforms),
Trichy Collectorate,
Trichirapalli District.
- 3.The District Registrar,
O/o.The District Registrar,
Trichirapalli.
- 4.The Revenue Divisional officer,
O/o.The Revenue Divisional Office,
Thiruverumbur Taluk,
Trichirapalli District.



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5. The Sub-Registrar,
Thiruverumbur Taluk,
Trichirapalli District.

6. The Tahsildar,
Thiruverumbur Taluk,
Trichy District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the fourth respondent in his proceedings in Na.Ka.A5/6658/2023 dated 05.01.2024 and quash the same as illegal and consequently direct the fifth respondent to register the documents qua the lands to an extent of 2.53 acres and 0.84 acres comprised in S.Nos.162/1 part and 165/1G1A part respectively, Suriyur Village, Tiruverumbur Taluk, Trichy District.

For Petitioner	: Mr.M.Ajmal Khan for M/s.Ajmal Associates
For R1, R2, R4 & R6	: Mr.D.Gandhi Raj Special Government Pleader
For R3 & R5	: Mr.S.P.Maharajan Special Government Pleader

ORDER

This writ petition has been filed challenging the order passed by the fourth respondent, dated 05.01.2024, thereby, rejected the request



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made by the fifth respondent seeking no objection certificate to register the document in respect of the land comprised in S.Nos.162/1 part and 165/1G1A part, Suriyur Village, Tiruverumbur Taluk, Trichy District.

2. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3. The land comprised in S.No..165/1G1A to an extent of 2.53 acres and the land comprised in S.No.161/1 to an extent of 0.84 acres in total 3.27 acres situated at Suriyur Village, Tiruverumbur Taluk, Trichy District was purchased by one P.Jeyakumar by the registered sale deed dated 03.11.2010 vide document No.9494 of 2010 from one S.Vijaya Kumar. Originally, the subject property belongs to one Periyasamy and others and they had executed the sale deed in favour of one Vijayakumar dated 14.07.2008. After purchase of the subject property, the petitioner was given power of attorney to develop the property. The petitioner herein obtained lay out approval from the Town and Country Planning Department in approval No.45/2019 dated 31.12.2019. Thereafter, the petitioner was also granted lay out approval and RERA approval. After



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sub-divided into house plots, so far 20 house sites were sold out in favour of the third parties. All the sale deeds were duly registered by the fifth respondent. When the petitioner presented the another sale deed for registration, there was an objection to register any document in respect of survey No.162/1 and 165/1G1A situated at Suriyur Village, Tiruverumbur Taluk, Trichy District. Therefore, the fifth respondent requested the fourth respondent to issue No Objection Certificate to register the deed of conveyance in respect of the subject property. On receipt of the same, the fourth respondent refused to issue No Objection Certificate to deal with the subject property on the ground that there is a ban in respect of the subject property for any registration by the Commissioner of Land Reforms.

4. The learned Senior Counsel appearing for the petitioner would submit that originally the subject lands were assigned in favour of 23 beneficiaries in the year 1991. Subsequently, they were sold out, in which, the petitioner's vendor had purchased the subject property in the year 2008. Subsequently, the petitioner's principal had purchased the subject property in the year 2010. In fact, after the lay out approval, 20



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house plots were already sold out in favour of various third parties.

Though the assignment orders were cancelled it was not communicated to any assignees. Further, no notice as given to any assignees and they were not given any opportunity of hearing before cancelling the order of assignment.

5. Counter affidavit filed by the fourth respondent and on the submission made by the learned Special Government Pleader appearing for the respondents 1,2,4 & 6 revealed that one Shanthakumari and others were claiming assignment patta in their favour in respect of the lands comprised in S.Nos.162, 162/1, 165/1, 25/2, 144/1, 228/3, 144/2, 208/2B, 208/5, since the said lands were declared as surplus lands under the Land Reforms Act. While processing the said application, the Special Deputy Tahsildar (Land Reforms) had conducted an enquiry and submitted his report before the Commissioner, Land Reforms vide proceedings, dated 14.03.2008. As per the reports, it is mentioned that already pattas were issued, but assigned patta land holders were not in possession of the said lands and also not constructed the houses, therefore, they violated the assignment conditions. Hence, the Enquiry



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Officer recommended for cancelling the assignment patta granted in their favour. Therefore, the assignees were issued show cause notices through the Village Administrative Officer on 17.03.2008. However, the assignees were not residing in the said areas and they failed to appear for enquiry. Therefore, the assignment orders were cancelled by the second respondent dated 02.04.2008. Subsequently, the subject lands assigned in favour of various persons have been recalled by them on the ground that their lands were already declared as surplus under the Land Reforms Act. While being so, for the very same property, now the petitioner presented the sale deeds for registration. On the objections raised for registering the documents, by communication dated 27.12.2023, the fourth respondent requested the fifth respondent not to register any document due to non-compliance of the terms and conditions of the assignment order. This Court directed the fourth respondent to produce the original file in respect of the assignment of the lands and cancellation of the assignment.

6. On a perusal of the records revealed that by an order dated 31.03.1991 the land admeasuring 433.31 acres situated in Sooriyur



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Village, Trichirappalli District has been declared as surplus from the holdings of Thiru.K.Vasudevan as per Section 18(1) Notification published in the Tamil Nadu Government Gazettee. After deducting the lands reserved for Bharathidasan University and encumbered lands action has been taken for assigning clear extent of 190.93 acres. Accordingly, 133 persons were assigned the lands comprised in several survey numbers including the subject lands. However, some of the assignees had sold their properties to various persons. The vendor S.Vijaya Kumar purchased the lands from the original assignee. Admittedly, the assignees were not served any notice and they were not given an opportunity of hearing before cancellation of assignment. That apart, cancellation of assignment order, dated 02.04.2008 revealed that there is no mention of violation of any conditions of assignment by the assignees. Further, the cancellation of assignment order also not served to any assignees or the subsequent purchasers. Further, the order of assignment cannot be cancelled for whatever reason after a long period i.e., 17 years. Therefore, the order of cancellation of assignment can have no force or authority whatsoever and the same no valid existence in the eye of law or claim to have come into operation and effect. Further



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no reliance can be placed on the same to even assert a claim based on its contents. This Court in the case of ***Seriya Pushpam vs. The Special Commissioner and Commissioner of Land Administration, Chepauk, Chennai and others*** reported in ***2021-1-Writ L.R.568*** held as follows:-

"17. In the present case, having regard to the contention of petitioner that no notice was issued prior to cancellation of assignment and that the order of cancellation of assignment was not communicated to petitioner's husband or his legal representatives, this Court has no hesitation to hold that the cancellation of assignment is non est in law. The conduct of the respondents in the present case indicates that they have no regard for law. The minimum protection available to the citizens of this country under [Article 300A](#) of the Constitution of India cannot be ensured if the respondents are allowed to meddle with the rights of the individual in the manner as seen in this case. Despite the fact that the petitioner, on coming to know that the pata in favour of her husband was cancelled, approached every authority by several representations, none of the respondents has considered the said representations. However, the respondent, after driving the petitioner to search in dark, went further by passing the impugned order, giving permission to Slum Clearance Board to enter upon the land. It is open for the respondents to assign or transfer any property in favour of any other department of Government and, in contemplation of such transfer, can permit



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the transferee department to enter upon the land. It is permissible only if the Government enjoys absolute right over the land. In the instant case, the assignment in favour of petitioner cannot be cancelled beyond a period of three years. Therefore, the order, cancelling the assignment, assuming to be true, is without jurisdiction, as it has been held by this Court in several judgements.

18. When the order, cancelling the assignment, itself is not communicated to petitioner, it is an irregularity, nothing short of fraud. The authorities cannot act like this by keeping petitioner and her family in dark to their disadvantage.

7. The above judgment is squarely applicable to the case on hand since assignment was cancelled after a period of several years.

8. Further, after purchasing the subject property, the petitioner obtained a lay out approval from the Town and Country Planning Department, vide approval No.45/2019 dated 31.12.2019. Subsequently, the Block Development Officer also granted lay out approval vide his proceedings, dated 10.12.2021. The petitioner also obtained RERA approval dated 24.04.2022 and sold out the several house plots. All the sale deeds were duly registered by the fifth respondent. Therefore, there



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is absolutely no requirement for No Objection Certificate from the fourth respondent.

9. In view of the above, this Court finds infirmity in the order passed by the fourth respondent, dated 05.01.2024 and it cannot be sustained and liable to be quashed.

10. Accordingly, the impugned order passed by the fourth respondent dated 05.01.2024 is quashed and the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

11. If the petitioner presented any document in respect of the subject property for registration, the fifth respondent is directed to register the same and release the document.

16.12.2024

Index : Yes / No
Internet : Yes/No
NCC : Yes / No
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G.K.ILANTHIRAIYAN, J.

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Dated:
16.12.2024