



W.A(MD).No.602 of 2018

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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).No.602 of 2018
and CMP(MD).Nos.3364 & 7779 of 2018

1.The Special Commissioner and the
Commissioner of Land Administration
Chepauk, Chennai - 5

2.The District Collector
Sivagangai District
Sivagangai

3.The District Revenue Officer
Sivagangai District
Sivagangai

4.The Tahsildar
Devakottai

...Appellants/Respondents

Vs

Tmt.Meenakshi

....Respondent/Petitioner

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 10.03.2015 made in WP(MD).No.2230 of 2009 and allow the writ appeal.



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For Appellants : Mr.Veera.Kathiravan
Additional Advocate General
Assisted by Mr.N.Satheeshkumar
Additional Government Pleader

For Respondent : Mr.C.Mahadevan

J U D G M E N T

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

The respondents in the writ petition are the appellants herein. The respondent herein as writ petitioner had filed W.P(MD).No.2230 of 2009 challenging the order of the second appellant dated 30.01.2009 and the consequential order of the third appellant dated 09.03.2009 wherein the order of assignment granted in favour of the writ petitioner was cancelled.

(A).Facts leading to the filing of the present writ appeal are as follows:

2.The Tahsildhar, Devakkottai had issued an order of assignment in favour of the writ petitioner on 19.08.1989 for an extent of 4.21 acres in J1/93 in Udayachi Group, Devakottai Taluk. As per the said assignment order, the cost of the land was fixed at Rs.1500/- per acre. The writ petitioner had paid the said amount and the lands were assigned in favour of the writ petitioner. The revenue records were also mutated in the name of the writ



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petitioner.

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3.The District Revenue Officer, Sivagangai had initiated proceedings for cancellation of the said order of assignment and after enquiry, he passed an order on 04.01.2002 cancelling the order of assignment on the following grounds:

(i)The land value for the assigned land has been fixed on the lower side.

(ii)The land is situated within the municipal limits of Devakottai and that too within 3 kilometers from the town.

Therefore, the order of assignment is not legal.

4.Challenging the said order, the writ petitioner had filed an appeal before the first appellant herein. The first appellant after considering the submissions, had set aside all the findings of the District Revenue Officer, Sivagangai and directed him to fix the land value which is double the value on the date of assignment. In compliance with the said order, the District Revenue Officer, Sivagangai by his proceedings dated 30.09.2008 had directed the writ petitioner to deposit a further sum of Rs.64,972/- for issuance of assignment order.

5.Without issuing any notice or conducting any enquiry, the District Collector, Sivagangai had cancelled the order of District Revenue Officer, Sivagangai by his order dated 30.01.2009 and had directed the District



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Revenue Officer, Sivagangai to conduct re-enquiry. In compliance with the said order, the District Revenue Officer, Sivagangai had passed an order on 09.03.2009 holding that there is no scope for granting assignment in favour of the writ petitioner. Challenging these two adverse orders, the petitioner had filed the above writ petition.

6.The petitioner had contended that once the Commissioner, Land Administration had considered the objection and set aside the order of District Revenue Officer, thereafter, the District Collector has no power to cancel the order of assignment. That apart, the order of the District Collector dated 30.01.2009 is without any notice or any enquiry.

7.The order of the District Collector further reveals that after cancelling the assignment, the District Revenue Officer has been directed to conduct an enquiry which would be an empty formality. The respondents in the writ petition had defended the said order by relying upon the reasons assigned by the District Revenue Officer in his original order dated 04.01.2002 for cancellation of the assignment order.

8.The writ Court after considering the submissions made on either side, had arrived at a finding that after the Commissioner, Land Administration had



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confirmed the order of assignment and directed to collect the total amount as land value, the District Collector or the District Revenue Officer have no power to cancel the order of assignment. The writ Court further found that the order of the District Collector is in violation of principles of natural justice. The writ Court proceeded to direct the authorities to fix the value of the land as on the date of the application made by the writ petitioner within a period of 8 weeks. On such payment, the authorities were directed to issue patta to the writ petitioner. Challenging the said order, the present writ appeal has been filed by the State.

(B). Contentions of the learned Additional Advocate General appearing for the appellants are as follows:

9.The land in question is located within the municipal limit of Devakottai Municipality and therefore, it cannot be assigned by Tahsildhar or by District Revenue Officer. The District Collector alone is the competent authority for assigning the land without cost and the Government alone is the competent authority to assign the land on collection of land value.

10.The power to fix the value of the land is only with the Government and the land can be assigned only by public auction. The value fixed by the District Revenue Officer by his proceedings dated 30.09.2008 is on the lower



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side leading to loss of revenue to the Government exchequer. Unless the order of assignment is approved by the Government, it is not enforceable.

11.He had further contended that neither the Tahsildhar nor the District Revenue Officer had any power to assign the cultivable land more than three acres situated within the municipal limit. When the order of the assignment is in violation of the Revenue Standing Order, they can be cancelled at any point of time after issuing notice to the parties. The assignee/writ petitioner is a rich person and not eligible to receive the assignment.

12.He had further contended that the violation of Revenue Standing Order had not been brought to the notice of the Commissioner of Land Administration and hence, the writ Court was not right in relying upon the order of Commissioner of Land Administration dated 29.04.2003 for allowing the writ petition. Hence, he prayed for setting aside the order passed by the writ Court.

(C).Contentions of the learned counsel appearing for the respondent are as follows:

13.Originally the order of assignment was granted in favour of the writ petitioner by the Tahsildhar and the same was cancelled by the District



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Revenue Officer. The order of the District Revenue Officer was set aside by the Commissioner of Land Administration by his proceedings dated 29.04.2003. The reasons assigned for cancelling the order of assignment in the present impugned order is the same as that of the reasons assigned in the first round of litigation. Once the Commissioner of Land Administration had confirmed the order of assignment, thereafter his subordinate officials namely the District Collector or the District Revenue Officer have no power whatsoever to cancel the order of assignment.

14.The learned counsel for the respondent had further contended that the order of the District Collector dated 30.01.2009 is clearly without notice and it is in clear violation of principles of natural justice. Hence, he prayed for sustaining the order passed by the writ Court.

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

(D).Discussion:

16.The original order of assignment granted in favour of the writ petitioner on 19.08.1989 was cancelled by the District Revenue Officer, Sivagangai by his proceedings dated 04.01.2002 citing three reasons. On the



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appeal filed by the writ petitioner, the Commissioner of Land Administration by his order dated 29.04.2003 had set aside the reasons assigned by the District Revenue Officer, Sivagangai and has directed him to fix the land value again and to confirm the order of assignment on payment of the said amount. After the matter was remitted by Commissioner of Land Administration, the District Revenue Officer, Sivagangai had passed an order on 30.09.2008 fixing the additional amount of Rs.64,972/- to be paid by the writ petitioner. In compliance with the said order, the petitioner has also deposited the said amount on 16.10.2008 and was waiting for the re-issuance of order of assignment and grant of patta.

17.The District Collector by his suo-moto proceedings dated 30.01.2009 had cancelled the order of District Revenue Officer dated 13.09.2008 and has directed the said Officer to conduct a fresh enquiry. Left with no other option, the District Revenue Officer has passed an order on 09.03.2009 holding that the petitioner is not entitled to an order of assignment.

18.The narration of the above said facts will make it clear that after the order of the State level authority namely the Commissioner of Land Administration for granting of order of assignment, the District Level Officer



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will not have any jurisdiction whatsoever to question the said order of assignment. In fact, the matter was remitted back by the Commissioner of Land Administration to the District Revenue Officer only for the purpose of fixing the market value of the land to be collected from the assignee. Therefore, the question of cancelling the order of assignment would not arise.

19.A perusal of the order of the District Collector dated 30.01.2009 would clearly reveal that the order of assignment has been cancelled on the same grounds which were assigned by the District Revenue Officer in his order dated 04.01.2002 while cancelling the order of assignment. These findings were challenged by the writ petitioner before the Commissioner of Land Administration and they have been set aside by the Commissioner of Land Administration by his order dated 29.04.2003. Therefore, it is clear that for the same reasons, for the second time, the order of assignment has been cancelled by the District Collector, Sivagangai on 30.01.2009.

(E) Conclusion:

20.The learned Additional Advocate General had contended that the relevant Revenue Standing Orders were not brought to the notice of the Commissioner of Land Administration while passing the order dated 29.04.2003. That cannot be a reason for his subordinate officials to ignore or overlook the said order and pass an order of cancellation of assignment



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which is contrary to the order of the superior officer. Hence, it is clear that the orders impugned in the writ petition are not legally sustainable. The writ Court had properly appreciated the factual and legal position and had set aside the orders impugned in the writ petition.

21.In view of the above said deliberations, there are no merits in the writ appeal and the same stands dismissed. 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
R.VIJAYAKUMAR,J.**

msa

Pre-delivery Judgment made in
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