



W.P.(MD) No.19550 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.08.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.19550 of 2024

and

W.M.P(MD)Nos.16582 & 16583 of 2024

V.Rani

.. Petitioner

Vs.

1.The Assistant Commissioner,
Land Reforms/Urban Land Ceiling
and Urban Land Tax,
Madurai.

2.The Revenue Divisional Officer,
Uthamapalayam,
Theni District.

3.The Tahsildar,
Bodinaickkanur Taluk,
Theni District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the records relating to the impugned order bearing M.R.4/234/Bodi./B1, dated 09.07.2013 passed by the 1st respondent and quash the same in so far as petitioner's property New Survey no. 78/1AU, New patta no. 1399, Bodi North Hills



W.P.(MD) No.19550 of 2024

Village, Bodinayakanur Taluk, Theni District measuring 2 acres and 18 cents.

For Petitioner : Mr.A.Rahul

For Respondents : Mr.P.Thambidurai
Government Advocate

ORDER

The above writ petition has been filed to quash the order passed by the 1st respondent in his proceeding bearing M.R.4/234/Bodi./B1, dated 09.07.2013 in respect of New Survey no. 78/1AU, New patta no. 1399, Bodi North Hills Village, Bodinayakanur Taluk, Theni District measuring 2 acres and 18 cents.

2. On 09.07.2001, the property was assigned to one S.P.Iyyappan by the 1st respondent in his proceedings bearing MR4/234/Bodi./B1. Thereafter, the said S.P.Iyyappan had sold the property to one R.Thangam under a registered sale deed, dated 11.11.2010, from whom the petitioner had purchased the property under a registered sale deed, dated 21.02.2013. After his purchase, the lands were resurveyed and patta had been granted in favour of the petitioner in patta no.1399 for the



W.P.(MD) No.19550 of 2024

property measuring an extent of 2 acres and 18 cents. The petitioner would submit that he is continuing to cultivate the said lands. In October 2023, he came to be informed by the staff of the 3rd respondent that the assignment in favour of his vendor had been cancelled by the impugned communication, dated 09.07.2013. Since the petitioner was not served with copy of the proceedings, he had taken out an application under the Right to Information Act and he had obtained the impugned order.

3. On perusing the same, he came to learn that the assignment issued in favour of S.P.Iyyappan was cancelled and the impugned order would read that the patta was cancelled as there was a violation of the assignment condition in as much as there was a bar for transfer of the property for a period of 20 years from the date of assignment. Challenging the same, the petitioner is before this Court.

4. Heard the counsels on either side.



W.P.(MD) No.19550 of 2024

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5. Clause 6 and 8 of the conditions appended to the assignment order issued in favour of S.P.Iyyappan is extracted herein below:

“6. The land assigned shall not be sold or otherwise alienated before the expiry of the period specified in paragraph 8 below and not even thereafter in respect of lands assigned to a member of Scheduled Castes or to a member of Scheduled Tribes except to other members of the Scheduled Castes or to be other members of the Scheduled Tribes, as the case may be

Provided that the land may be hypothecated to Government under the Land Improvement loans Act, 1883 (Central Act XX of 1883) and the Agricultural Loans Act, 1884 (Central Act XII of 1884), or to a co-operative institution or a Scheduled bank authorised by the Government for affording credit to the agriculturists under the schemes of institutional financing of agricultural credits as security for loans obtained for improvement to the lands.

8. Subject to the conditions of this deed the land will vest absolutely in the assignee only after the value of the land, buildings and trees thereon is paid in full, or after the expiry of a period of Twenty Years. If any land assigned under these rules is required for any public purposes before the recovery of the last instalment of land value due from the assignee, the land may be



W.P.(MD) No.19550 of 2024

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resumed by Government. In Such cases "the annual value as fixed under Schedule III of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1979 (Tamil Nadu Act 11 of 1979)", for use of the land from the date of assignment, to the date of resumption by Government and the loans and advances, if any, granted for the improvement of the land or on the security of the land will be recoverable from the assignee. Subject to adjustment against such dues, the assignee shall be entitled to refund of the instalments of land value paid by him and reimbursement of the cost of any permanent improvement effected or any structure such as wells, buildings, etc., erected on the land at his own expenses for agricultural purposes or for his own residence."

6. A perusal of condition 8 would indicate that the lands would vest absolutely on an assignee under 2 conditions. (a) where the amount in respect of the land, building and trees apply in full or (b) where after the expiry of 20 years. Clause 6 would state that until the expiry of the period specified in condition no.8, the land cannot be sold or otherwise alienated. The impugned order does not take note of the fact that the property would vest absolutely on the assignee in cases where the entire value of the land is paid. In the very deed of assignment, it is stated that



W.P.(MD) No.19550 of 2024

the entire consideration of Rs.2710/- (Rupees Two Thousand Seven Hundred and Ten only) has been remitted on 21.06.2001 and it is thereafter that the assignment has been granted in favour of the said Iyyappan. Therefore, considering clause 8, the impugned order is erroneous and there is a non-application of mind on the part of the 1st respondent. Accordingly, the impugned order, dated 09.07.2013 is set aside. The 2nd respondent is directed to reissue the patta which has been cancelled to the petitioner within a period of four (4) weeks from the date of receipt of copy of this order.

7. Accordingly, this writ petition stands allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

16.08.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes

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W.P.(MD) No.19550 of 2024

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W.P.(MD) No.19550 of 2024

P.T.ASHA, J.

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W.P.(MD) No.19550 of 2024

16.08.2024