



W.A.(MD) No.781 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.04.2024

CORAM

JUSTICE N. SESHASAYEE

and

JUSTICE P.VADAMALAI

W.A.(MD) No.781 of 2018

and

C.M.P.(MD).No.4578 of 2018

1. The Principal Secretary and
Commissioner of Land Administration,
Chepauk,
Chennai-600 005.

2. The District Revenue Officer,
Sivagangai District,
Sivagangai.

3. The Tahsildar,
Manamadurai,
Sivagangai District.

... Appellant Nos.1 to 3 /
Respondent Nos.1 to 3

Vs.

R.Ganthimathi

...Respondent / Petitioner



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Prayer: Appeal filed under Clause 15 of Letters Patent Act to set aside the order passed by the learned Single Judge dated 15.11.2016 made in W.P. (MD).No.4024 of 2009 on the file of this Court and allow the above Writ Appeal.

For Appellants : Mr.V.Nirmal Kumar,
Government Advocate

For Respondent : Mr.A.Mohan

JUDGMENT

(Judgment of the Court was delivered by N.Seshasayee, J.)

This Writ Appeal is filed challenging an order of the learned Single Judge in W.P.(MD).No.4024 of 2009, dated 15.11.2016.

2. The fact relevant for the current purpose may be stated as below:

A) On 28.05.1994, the respondent's husband Rajinikanth was assigned with 0.84.0 Hectares of agricultural land in Survey No.375/1 of Kallurichi Village, Manamadurai Taluk, Sivagangai District. Later, it was cancelled by the District Revenue Officer by his proceedings dated 13.04.2005 on a report from the Revenue Divisional Officer that the



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husband of the respondent was not eligible for assignment of land in the first place as his father possessed lands;

B) That he had not fulfilled the obligation of cultivating the land within three years of assignment of the same;

3. The appellants would now prefer an appeal to the Commissioner of Land Administration in terms of RSO-15 (15), but, after about three years since passing of the order by the District Revenue Officer. That came to be dismissed by the Commissioner of Land Administration vide his proceedings dated 05.03.2009, essentially on the ground that it was filed beyond sixty days, time prescribed under RSO-15 (15) for filing an appeal. This came to be challenged before this Court in W.P.(MD).No.4024 of 2009 and the learned Single Judge in his order has allowed it essentially on the ground that the original order of the District Revenue Officer only refers to the name of the respondent's husband but not to any property. This order is now under challenge in the present Appeal.



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4. Heard both sides. The learned Government Advocate, who appeared for the appellants submitted that the order of the District Revenue Officer dated 13.04.2005 provides the details of the land assigned to the respondent's husband and also the reason for its cancellation. Consequently, as against the order of the Appellate Authority, a revision will always lie under Order RSO-15(18). When there is an effective alternative remedy available, it may not be appropriate to entertain a petition under Article 226 of the Constitution.

5. The learned counsel for the respondent submitted that the husband of the respondent has not appeared and the District Revenue Officer proceeded to cancel the assignment of land given to her husband. He also submitted that the jurisdiction of this Court under Article 226 of the Constitution has not lost merely because the availability of an alternative remedy.

6. Rival contentions put forth by either side are carefully considered. Even though there is a merit in the contention of the learned Government Advocate *vis-a-vis* availability of an effective alternative remedy, to drive the



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respondent to file a revision after fifteen years since the disposal of the appeal, may not be appropriate. So far as the appeal itself is concerned, the Appellate Authority, viz., the Commissioner of Land Administration has not applied its mind to the merit of the contention of the respondent, but, has confined his focus to the point of limitation for preferring the appeal. Since the issue relates to property which not only given an economic status to the assignee of the land, but also, a degree of social status, the matter pertaining to cancellation of assignment may have to be done very carefully. Hence, this Court considers that it would be appropriate that the Appellate Authority, Commissioner of Land Administration, bestows its attention to the merit of the appeal, rather than dismissing the same on a technical plea of limitation.

7. Accordingly, this Court now condones whatever delay that might have intervened in preferring the appeal and chooses to remand the matter back to the appellate authority to consider it on its merits.

8. This Writ Appeal is accordingly allowed and the matter is remanded back to the Appellate Authority as indicated above. Consequently, connected



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miscellaneous petition is closed. No costs.

(N.S.S., J.)

(P.V.M., J.)

03.04.2024

NCC : Yes/No

Index : Yes/No

Internet : Yes

TSG

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