



W.P.(MD) No.588 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.08.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD).No.588 of 2015

and

M.P(MD)Nos.2 to 4 of 2015

1.The Registrar,
Tamil Nadu Agricultural University,
Coimbatore-641 003.

2.The Dean,
Horticultural College and Research Institute,
Tamil Nadu Agricultural University,
Periyakulam,
Theni District-625 604.

.. Petitioners

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Agriculture Department,
Fort St.George,
Chennai-600 009.

2.The State of Tamil Nadu,
Represented by its Secretary to Government,
Revenue Department,
Fort St.George,
Chennai-600 009.



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3. The Special Commissioner and
Commissioner of Land Administration,
Chepauk, Chennai-600 005.

4. The District Collector,
Theni District,
Theni.

5. The District Revenue Officer,
Theni District,
Theni.

6. The Sub-Collector,
Periyakulam,
Theni District.

7. The Revenue Divisional Officer,
Periyakulam,
Theni District.

8. The Tahsildar,
Periyakulam Taluk,
Periyakulam,
Theni District.

9. S. Paulraj

10. K. Sundari

11. M/s. Sujatha Educational Trust,
Represented by its Managing Trustee and
Administrator of Thanga Muthu Polytechnic College,
M. Suganthi. .. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the order Na.Ka.No.36763/2011/B1, dated 26.09.2014 passed by the 5th respondent and quash the same and consequently direct the 2nd to 8th respondents herein to assign the land of 2.21 acres in Survey No.203 of E. Kamatchipuram Village, Periyakulam Taluk, Theni District, to the 2nd Petitioner-College for the Educational and Research purposes in accordance with law.

For Petitioners	:	Mr.A.Thirumurthy
For R1 – R8	:	Mr.P.Thambidurai Government Advocate
For R9 - R11	:	Mr.K.Appadurai

ORDER

The petitioners who are the Registrar and Dean of the Tamil Nadu Agricultural University have filed this writ petition seeking a Certiorarified Mandamus to quash the order passed by the 5th respondent in his proceedings bearing Na.Ka.No.36763/2011/B1, dated 26.09.2014 and consequently direct the respondents 2 to 8 to assign the land measuring an extent of 2.21 acres in Survey No.203 of E. Kamatchipuram Village, Periyakulam Taluk, Theni District to the 2nd



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petitioner college for educational and research purpose in accordance with law.

2. The facts set out in the affidavit filed in support of the writ petition are that the aforementioned lands which form part of a larger extent of Government poramboke land measuring 45.92 acres was requested to be transferred to the petitioners to extend their research activities in the erstwhile Horticulturural Research Station at Periyakulam and also to upgrade the Horticulturural College and Research Institution. These lands were assigned to one Ramasamy Chettiar by the Tahsildar, Periyakulam in DKT.No.2542/80, dated 26.07.1971 imposing the condition that the land should not be sold within 10 years from the date of assignment. However, the Assignee sold the land to one Hameetha Begum under a registered sale deed, dated 06.02.1981 violating the condition and she in turn, had sold the property to the 9th respondent, namely partner of Vaigai Paper and Boards under a registered sale deed, dated 09.12.1981. As the term of the assignment had been violated, the Assistant Collector, Periyakulam had cancelled the



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assignment and the land was resumed to the Government by proceedings, dated 19.12.1993. The 9th respondent had also represented to the Government for exempting the said land from resumption. The Collector Madurai and the District Revenue Officer Madurai and Special Tahsildar, Periyakulam had requested the Tamil Nadu Agriculture University for its remarks on the request of the 9th respondent. By letter, dated 02.03.1987, the petitioners had justified the request for transferring of lands to the Horticulture College, Periyakulam. The order, dated 19.12.1983 cancelling the assignment was taken up on appeal and the same was ordered and the cancellation was set aside by the 3rd respondent by his order, dated 07.10.1993. This order was challenged by the 1st respondent before the 2nd respondent. The 2nd respondent had rejected the appeal made by the 1st respondent. The proposal, dated 31.10.1987 sent by the 1st petitioner to the 3rd respondent and the 4th respondent was pending and the 2nd respondent rejected the appeal made by the 1st respondent without proper consideration.

3. The Assistant Collector, Periyakulam by his proceedings, dated 17.03.1995 assigned an extent of 2.21 acres to the 9th respondent with a condition that they should not alienate the property within 10 years of



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assignment and 5 cents of eastern portion of survey No.203 as a pathway to the college.

4. The lands were assigned to the 9th respondent as he had stated that he would immediately start a paper industry and give employment to over 100 workers. However, no such industry was started. Without following the condition, within a period of 3 years, the 9th respondent sold the land measuring an extent of 2.21 acres in survey no.203 to the 10th respondent by registered sale deed, dated 21.11.1997. The 10th respondent has also alienated the property to the 11th respondent. Thus the 9th respondent had misrepresented and obtained orders on the basis of this misrepresentation from the Government. Therefore, challenging this order, the 10th and 11th respondents had filed W.P(MD)No.10320 of 2011 to quash the order, dated 19.08.2011 and for directions to restore the land to the 11th respondent. The 9th respondent was not added as a party to this proceedings. It is the contention of the petitioners that they have not been made as parties and the order has been passed behind their back. They had therefore filed the writ petition for the relief stated above.



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Along with the counter in the writ petition, it is seen that by an order, dated 16.12.2011 in a writ petition filed by the respondents 10 and 11 challenging the cancellation of the assignment in favour of the 9th respondent since he has violated the Revenue Standing Order No.15. This Court has passed the following order:

“7. It is also well settled that once a sale is made, after collecting the market value of the property, the condition restraining alienation cannot be enforced. It would be a different matter if the Government had shown some concession in the prices fixed for the sale of the land. In other words, if an assignment had been made upon the payment of anything lesser than the market value, on account of some special reasons, then the restriction regarding alienation would hold good. But, in this case, the file discloses that no concession was shown to Paulraj in so far as the market value of the and is concerned. Therefore, the restriction regarding alienation cannot be applied to the case on hand.”

5. The petitioners have not sought to challenge the order, dated 16.12.2011 passed in W.P(MD)No.10320 of 2011. The subsequent proceedings of the 5th respondent impugned in the present writ petition



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passed on 26.09.2014 is only in compliance of the order passed by this Court in W.P(MD)No.10320 of 2011. If the writ petition as prayed for is ordered, then it would amount to reviewing the order passed by the learned Judge in W.P(MD)No.10320. The said order has not been challenged by the petitioners herein by filing a third party appeal against the same. Therefore, the relief claimed in the writ petition cannot be granted. The petitioners herein are seeking to agitate the issue without participating in any of the earlier proceedings and without showing as to how they have been aggrieved by the impugned orders.

6. Therefore, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

06.08.2024

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

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To

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P.T.ASHA, J.

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