IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.04.2025

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Writ Petition No.13912 of 2022
and
W.M.P.Nos.13169 & 13171 of 2022

T.Venkatesan
S/o.M.S.Tirumalai

Petitioner

Vs

1. The Commissioner
office of the Land Commissioner, Chepauk,
Chennai-600 005.

2.The District Revenue Officer,
Coimbatore District.

3.The Revenue Divisional Officer,
Coimbatore District.

4.The Tahsildar,
Madhukarai Taluk, Coimbatore District.

5.The Village Administrative Officer
Seerapalayam Village, Madhukarai Taluk,
Coimbatore District.

Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for records on the file of the 1st respondent with respect to the impugned order dated 11.05.2022 in D1/R.P. No.10/2017 (L.Ref) and quash the same.

For Petitioner : Mr.Sarath Chandran
for Ms.M.Sneha

For Respondents : Mr.P.Sathish
Additional Government Pleader

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ORDER

This writ petition has been filed challenging the impugned proceedings of the first respondent dated 11.05.2022 wherein the request made by the petitioner for patta came to be rejected and the order passed by the Revenue Divisional Officer and District Revenue Officer, Coimbatore, came to be confirmed.

2. Heard Mr.Sarath Chandran, learned counsel for petitioner and Mr.P.Sathish, learned Additional Government Pleader appearing for respondents.

3. It is not in dispute that the subject property was originally assigned to landless poor. One of the assignee sold the property in favour of one Chithiraiselvi through a registered a sale deed dated 27.02.2002 registered as document No.336 of 2002. This sale deed was executed after nearly 19 years from the date of assignment. The said Chithiraiselvi sold the property in favour of one Kumaresan by a sale deed dated 31.08.2005. The said Kumaresan sold the property in favour of the petitioner's vendor through a registered sale deed dated 31.08.2006 registered as document No.3563 of 2006. The petitioner purchased the subject property by virtue of a registered sale deed dated 21.04.2008 registered as document No.2042 of 2008.

4. It is also not in dispute that earlier Patta Pass Book was issued in favour of the vendors and all the revenue records stood in the name of the vendors. The same is evident from the proceedings of the fourth respondent dated 30.11.2006.

5. The petitioner submitted an application seeking for mutation of revenue records in his name. Based on the same, an inspection was conducted

and a report was submitted before the third respondent. The third respondent, by proceedings dated 18.12.2016, cancelled the original assignment made in favour of Perumal and two others. This was done on the ground that the assignee had alienated the property before the expiry of 20 years. Aggrieved by the order passed by the third respondent, the petitioner filed an appeal before the second respondent and the second respondent, through proceedings dated 06.06.2017, dismissed the appeal and confirmed the order passed by the third respondent. Aggrieved by the same, a revision was filed before the first respondent and the first respondent rejected the revision and confirmed the order passed by the respondents 2 and 3.

6. The short issue that arises for consideration in the present case is the condition imposed while assigning the lands specifically stating that the assignee should not alienate the assigned land within fifteen years from the date of assignment. This condition was subsequently amended in the year 1987 wherein the time was enhanced from 15 years to 20 years. Therefore, it must be seen as to whether this subsequent amendment that took place in the year 1987

will bind the assignees, who had admittedly executed the sale deed after nearly 19 years from the date of assignment.

7. The issue in hand is no longer *res integra* and it is covered by the order passed in W.P.(MD)No.14295 of 2011 dated 20.07.2022. The relevant portions are extracted hereunder:

> "8. There is no dispute that the petitioner's vendor namely Rengaraja Naidu was granted assignment for an extent of 1.10 acres vide proceedings dated 31.08.1983. The said assignment order is not a free assignment, but the assignee has to make payment of a sum of Rs.4207.20. Though the original authority has found that the payments have not been made on the date of alienation, the Appellate Authority has not found fault with the writ petitioner's vendor. The learned counsel for the petitioners has also produced the challans with regard to the payment made by the original assignee and the entire amount as contemplated in the original assignment order has been paid on 28.05.1997. Hence, there is no dispute that on the date when the sale deed was executed, the entire amount as contemplated in the original assignment date has been paid off by the said Rengaraja Naidu.
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> 9. Clause 6 of the annexure to the original assignment order prescribes that any alienation before payment of the entire amount or completion of 15 years whichever is later as per original Disposal of Surplus Rules of the year 1965 would be invalid. Later, Rule 9(1)(iii) was amended with effect from 12.11.1987. As per amendment, the restriction regarding alienation was extended up to 20 years from 15 years. Invoking the said amended provision, the original authority as well as the Appellate Authority have arrived at a finding that the original assignment is of the year 1983 and the alienation has been made in the year 1999 which is well within a period of 20 years. Based upon the said ground, the impugned order has been passed cancelling the order of assignment.

10. The contention of the writ petitioners is that the amendment came into effect only on 12.07.1987. The said amendment cannot take away the vested right of the original assignee to alienate the property after expiring of 15 years based upon the original order of assignment. Hence, the alienation made by the original assignee after a period of 15 years cannot be held to be invalid. In other words, the amended rule will not have a retrospective effect covering the assignment made in the year 1983 also. The issue that arises for consideration is that whether the amendment of Rule 9(1)(iii) of the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules on 12.11.1987 will have a retrospective effect covering the assignment that were granted prior to the said date.

11.The Hon'ble Supreme Court in a judgment reported i***n AIR 1990 SC 405 (P.Mahendran and others Vs. State of Karnataka)*** in Paragraph No.5 has held as follows:

> *"5.It is well settled rule of construction that every statute or statutory Rule is prospective unless it is expressly or by necessary implication made to have retrospective effect. Unless there are words in the statute or in the Rules showing the intention to affect existing rights the Rule must be held to be prospective. If a Rule is expressed in language which is fairly capable or either interpretation it ought to be construed as prospective only. In the absence of any express provision or necessary intendment the rule cannot be given retrospective effect except in matter of procedure. The amending Rule of 1987 does not contain any express provision giving the amendment retrospective effect nor there is anything therein showing the necessary intendment for enforcing the Rule with retrospective effect. Since the amending Rule was not retrospective, it could not adversely affect the right of those candidates who were qualified for selection and appointment on the date they applied for the post, moreover as the process of selection had already commenced when the amending Rules came into force. The amendment Rule could not affect the existing rights of those candidates who were being*

> *considered for selection as they possessed the requisite qualifications prescribed by the Rules before its amendment moreover construction of amending Rules should be made in a reasonable manner to avoid unnecessary hardship to those who have no control over the subject matter".*

12. In the present case, the Statutory Rule namely Rule 9(1)(iii) has been amended on 12.11.1987 under G.O(Ms).No.1713 Revenue Department. The said G.O. has been placed on record by way of typed set of papers by the respondents counsel. A perusal of the G.O. does not indicate that the amendment will have retrospective effect.

13.A plain reading of the amendment discloses that there is no express provision or necessary intendment clause in the amended Rule for giving it a retrospective effect. Any interpretation to confer retrospective effect would seriously affect the right of the assignees who were granted assignment order prior to the date of amendment. For example, if an assignment has been granted in the year 1971, the said assignment would have been granted only with a condition that alienation should not be effected prior to the completion of 15 years i.e. 1986. In case, if the alienation has been effected in the year 1987 prior to the G.O., still the alienation would get affected. This will have drastic effect over the vested rights of the assignee to alienate the property after completion of 15 years as contemplated in the original order of assignment. Hence, this Court is of the view that the amendment carried out in Rule 9(1)(iii) of Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965, will only have a prospective effect and the same would cover the assignments made after 12.11.1987 only.

14. The learned counsel for the respondents had further relied upon Clause 13 of the annexure of the original assignment order and contended that the assignee has to comply with other conditions in Rule 9 of Disposal of Surplus Land Rules. Hence, as and when the Rule gets amended, the assignee is bound by the said amended Rule. I am afraid such an interpretation cannot be given. A perusal of Rule 9 of Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965 discloses

that apart from the condition of non alienation, several other conditions have been imposed under the said Rule. Clause 13 of the of assignment order could only be interpreted to direct the assignee to comply with the other conditions in Rule 9. It can never be interpreted to mean, amendments which are carried out in Rule 9 from time to time. This Court has also arrived at a finding that the amendment that was carried out on 12.11.1987 is only prospective in nature and hence, this contention is not legally sustainable."

8. It is quite clear from the above order that the amendment carried to the relevant rule will only have a prospective effect and it will cover those assignments made after 12.11.1987. In the case in hand, the assignment was admittedly made in the year 1983.

9. In the light of the above discussion, the impugned proceedings of the first respondent confirming the order passed by the respondents 2 and 3 is hereby quashed. There shall be a direction to the fourth respondent to act upon the application submitted by the petitioner and to issue patta in the name of the petitioner by issuing necessary proceedings within a period of four (4) weeks from the date of receipt of a copy of this order.

In the result, this writ petition is allowed with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

23.04.2025

Neutral citation : Yes/No
Index : Yes/No
Speaking Order / Non Speaking Order
gm

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N. ANAND VENKATESH, J.

gm

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