



W.P.(MD)No.10356 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 16.04.2025

CORAM

THE HONOURABLE MR.JUSTICE **P.B.BALAJI**

W.P.(MD)No.10356 of 2025

and

W.M.P.(MD)Nos.7756 and 7757 of 2025

- 1.Annakodi
- 2.Antony Raj Vincent
- 3.N.Shanmugavel
- 4.Karthigaiselvi Balaji
- 5.Navamani
- 6.Muthulakshmi
- 7.Daniel Balakrishnan
- 8.Indirani
- 9.Gnanasundari
- 10.Kanniyammal
- 11.Muthiah
- 12.Ponnuchamy
- 13.Daisy
- 14.Munikantham
- 15.Kavitha
- 16.Sankarapandiyan
- 17.Umadevi

... Petitioners

vs.

1.The Inspector of General Registration,
No.100, Santhome High Road,
Pattinapakkam, Chennai - 600 028.



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2.The Commissioner of Land Reforms,
Ezhilagam, Chepauk,
Chennai 600 005.

3.The Director of Land Reforms,
Ezhilagam, Chepauk,
Chennai 600 005.

4.The Assistant Commissioner of Land Reforms,
Office of the Assistant Commissioner of Land Reforms,
Madurai District.

5.The District Collector,
Collectorate, Madurai District

6.The District Revenue Officer,
Madurai District.

7.The Revenue Divisional Officer,
Melur Taluk, Narasingampatti,
Madurai District.

8.The Tahsildar,
Madurai East Taluk,
Madurai District.

9.The Sub-Registrar,
Kadaikinaru, Madurai North Registration District,
Madurai District.

10.Thiagarajan ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the proceedings of the 7th respondent in Na.Ka.No.4813/2021/A3, dated 21.07.2023 all



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consequential proceeding including the proceeding in Na.Ka.No. 4813/2021/A3, dated 15.03.2024 and culminating in the Gazette Notification No.71, dated 12.08.2024 published by the 5th respondent and to quash the same as illegal insofar as the petitioners are concerned.

For Petitioner :Mr.Gowtham Thilak
For R1 to R9 :Mrs.K.Malathi
Additional Government Pleader

ORDER

The petitioner challenges the impugned orders passed by the seventh respondent, dated 21.07.2023 and 15.03.2024.

2.Heard Mr.Gowtham Thilak, learned Counsel appearing on behalf of the petitioner and Mrs.K.Malathi, learned Additional Government Pleader appearing on behalf of the respondents.

3.When the matter is taken up for admission, the learned Counsel for the petitioner would submit the issue involved in this Writ Petition is squarely covered by the order of this Court in W.P.(MD)No.20483 of 2024, dated 19.03.2025, wherein, this Court has passed the following order:



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“13.3.Before proceeding to discuss any further, it is relevant to discuss the provisions of the Act. Section 8 of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961, requires every person, who holds or deems to be holding lands in excess of the Ceiling Area to furnish to the authorised officer, a return containing the particulars regarding the members of the family, details of any encumbrance made, pending litigation, tenancy details, if any and particulars of land, which the person desires to retain within the ceiling area and the lands proposed to be declared as surplus lands.

14.Section 9 of the Act kicks in on failure of the owner to file return as contemplated under Section 8 or when the information furnished is in correct or incomplete. In such event, a notice shall be issued by the authorised officer, calling for additional particulars or such other information as may be necessary and there upon on the basis of the return filed under Section 8 and 9, considering additional particulars, the authorised officer under Section 10 shall conduct an enquiry and prepare a draft statement in respect of each persons holding of excess lands. Section 10(5) contemplates the draft statements to be published and copies served on the persons interested and also consideration of objections received from the interested persons and to pass order thereon. Under Section 12, once the objections are disposed of in terms of Section 10(5) and orders passed, the authorised officer shall declare the surplus land held by each person and publish a final statement, evidence of which shall be conclusive, subject to Section 14 alone.

15. Section 14 provides for amendment of the final statement under certain specific circumstances like where suit or proceedings relating to title of the subject land excluded has been finally disposed of requiring amendment to the finding statement published under Section 12.

16. Section 15 confers the power on the authorised officer, not withstanding provisions contending under Sections 12 and 14, on its own motion or on the application of any other parties provided, if he satisfies that there has been a bonafide mistake with regard to any entry in the final statement under Section 12 or 14, make necessary corrections to such final statement and also correct clerical or arithmetical mistakes with regard to any entry in such final statement.



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17. *On a conjoint reading of the above relevant provisions of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961, it is thus clear that the authorised officer's final statement is final and conclusive and it is amenable for changes only as provided under Section 14 and not otherwise. Even though the power is conferred under Section 15, both suo motu power of the authorised officer and also on the application of any person, the subject is restricted only to correction of clerical or arithmetical mistakes or bonafide mistakes regarding any entries in the final statement and not otherwise.*

18. *In Syed Rabia Beevi's case, this Court, after discussing the various provisions of the Act, held that Section 15 does not amount to a power of revision and that elaborate procedures have been laid down under Section 10(5) to provide for hearing objections and thereafter, disposing of the objections and publishing of a final statement and such quasi-judicial exercise cannot be used for assuming power under the guise of bonafide mistakes that have been made. In V.S.Parthasarathy Mudaliar's case also, the very same view has been taken by this Court.*

19. *In State of Rajasthan's case, the Hon'ble Supreme Court held that delay in challenging the notification is fatal and the writ petition would be liable to be dismissed on the ground of laches and when there is inordinate delay in filing the writ petition, when all steps taken in the acquisition proceedings had become final. In fact, the Hon'ble Supreme Court even observed that the fact that no third party rights were created in the case, was hardly a ground for interference. Referring to the relevant test in "Administrative Law" by H.W.R. Wade 7th Edition, the Hon'ble Supreme Court held that any order or action, if ultra vires the power, becomes void and it does not confer any right. But the action need not necessarily be set at naught in all events. Even if the order may be void, if the party does not approach the Court within a reasonable time, which is always a question of fact and have the order invalidated or acquiesced or waived, the discretion of the Court has to be exercised in a reasonable manner. When the discretion has been conferred on the Court, the Court may in appropriate case decline to grant the relief, even if the order is held to be void.*

20. *In Joint Collector Ranga Reddy's case, the Hon'ble Supreme Court held that delayed exercise of revisional*



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jurisdiction is frowned upon because if actions or transactions were to remain forever open to challenge, it will mean avoidable and endless uncertainty in human affairs, which is not the policy of law. Further held, even when there is no period of limitation prescribed for exercise of such powers, the intervening delay, may have led to creation of third party rights, that cannot be trampled by a belated exercise of a discretionary power, especially, when no cogent explanation for the delay is in sight. The Hon'ble Supreme Court further held that even in cases where the orders sought to be revised are fraudulent, the exercise of power must be within a reasonable period of the discovery of fraud. Simply describing an act or transaction to be fraudulent, it will not extend the time for its correction to infinity; or otherwise, the exercise of revisional power would itself tantamount to a fraud upon the statute that vests such power in an authority.

21. *In Chhedi Lal Yadav's case, it is held that where no period of limitation is prescribed, the action must be taken, within a reasonable time. Depending on the circumstances of each case and the purpose of the statute, action is to be initiated within a reasonable time, particularly, in view of the fact that the land was transferred several times during this period, obviously, in the faith that it is not encumbered by any right, because the legislation is beneficial and no limitation is prescribed, the rights acquired by persons cannot be ignored lightly and proceedings cannot be initiated after unreasonable delay.*

22. *In Chinnapandi's case, the Hon'ble Division Bench of this Court, following the decision of this Court in T.Tirumalai Gounder and another vs. The State of Tamil Nadu, reported in 2010-5-L.W. 289, held that when revenue authorities had effected mutation, belated probe cannot be allowed.*

23. *Insofar as the decisions relied on by the learned counsel for the tenth respondent in R.Chandavarappa's case, the Hon'ble Supreme Court held that when material resources of the community are distributed to subserve the common good and Scheduled Castes and Scheduled Tribes are the weaker sections of the society and when the State having implemented the policy of economic empowerment is to do economic justice, assigned lands to them to see that they remain in possession and enjoy the property from generation to generation.*

24. *In V.G.P.Prem Nagar's case, the Hon'ble Division*



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Bench of this Court held that when 'Panchami Lands' have been assigned to the depressed classes, alienation of such lands imposing conditions, then such conditions are not unconstitutional or unreasonable and can be enforced.

25. In V.D.S.R.Re.Rolling Mill's case, this Court held that when clauses in the assignment order and the Revenue Code itself indicates restrictions on alienation of the assigned lands and also of the power of the competent authority to enter upon and resume possession, whenever contravention is proved, then the exercise of power to cancel the assignment cannot be questioned. Insofar as the decisions of the Hon'ble Division Bench of this Court in V.G.P.Prem Nagar's case as well as the decision of this Court in V.D.S.R.Re.Rolling Mill's case, the question of delay was not gone into or rather was not warranted.

26. In fact, in the decision of the Hon'ble Division Bench of this Court in V.G.P.Prem Nagar's case, it is a case of the panchami lands assigned to the depressed classes which weighed in the mind of this Court. Similarly, even in Chandevaram's case, as well, the Hon'ble Supreme Court was only discussing the right conferred on the assignee and in that context, it has been stated that assigned lands to persons of the weaker sections of the Society would have to remain in their possession and enjoyment from generation to generation. In the present case, the beneficiaries admittedly were not either Harijans / Scheduled Caste / Scheduled Tribe and it is not a case of assignment of panchami lands for the benefit of weaker sections of the Society. Admittedly, the surplus lands acquired from Pitchaiamm alone were subject matter of assignment in favour of four assignees and it is not even mentioned in the assignment order that the beneficiaries / assignees were persons from the weaker sections of Society like Scheduled Caste and Scheduled Tribe. In fact, the assignment was for consideration which has admittedly been paid by the assignees. No doubt, certain conditions have been imposed on the assignees and there has been a violation of the said conditions.

27. The learned counsel for the petitioners would submit that the condition which has been relied on by the learned counsel for the tenth respondent would be applicable only if the assignment was made in favour of Harijan or Scheduled Caste / Scheduled Tribe and not otherwise and therefore, when the



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assignment was made to persons from other communities, the said condition would not stand attracted. I am unable to countenance the said arguments for the simple reason that condition No.6 in the annexure only talks about the subject assigned lands not being sold for a period of 15 years and further restrictions are placed for sale of the lands, only to persons from the Harijan / Scheduled Caste / Scheduled Tribe community. The attractive arguments of the learned counsel for the petitioners does not find favour with me. Therefore, there is no hesitation for me to hold that by not carrying on agricultural activities and by alienating the subject lands, by forming the lay out and by selling plots to persons other than economically weaker sections, viz., Harijan, Scheduled Caste / Scheduled Tribe, there has been a violation of the terms and conditions of assignment.

28. The next question that falls for consideration is as to whether when there has been any such violation of such conditions, the respondents can take action at their own will and pleasure. In T.Tirumalai Gounder's case, the Division Bench of this Court held that when the revenue officials themselves have effected mutation, it amounted to implied consent and therefore, it was not open to the authorities to cancel the assignment, citing violations. The said ratio was followed by the Hon'ble Division Bench in Chinnapandi's case, where the properties changed hands several times and mutation of records was effected after every sale and therefore, belatedly complaining of violation of conditions of assignment cannot be entertained. In the present case also, as already discussed in the opening paragraphs of this order, four assignees appointed three powers of attorneys, who in turn formed lay out and sold several plots. The petitioners are purchasers of plots from the original assignees. The petitioners' applications for not only mutation of revenue records in their favour, were not only favourably acted upon, but, that apart even building planning permission had been granted and the plots have also been regularized by the revenue authorities who have subsequently chosen to cancel the assignment that too, on a representation made by the tenth respondent, who claims that his predecessor in interest, namely, one Ponnammal's property, has been wrongly included as surplus lands. It is not brought to my notice that the said Ponnammal during her life time, had taken any steps to contend that her lands were wrongly included as



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surplus lands of Pitchaiammal. Therefore, as rightly pointed out by the learned counsel for the petitioners, in a writ petition that has been filed challenging the cancellation of the assignments, the tenth respondent cannot seek any relief. The order of cancellation after effecting mutation of records, granting of building approval as well as the regularization of the plots and that too after a lapse of close to 40 years is clearly unsustainable. Having remained mute spectators right from the date of property being plotted out and sold to various third parties, including the petitioners herein, not only there have been merely watching over the alienations, but they have also given approval for construction of buildings, mutation of revenue records and also regularization of the plots. Therefore, the respondents, after having done all these, that too, after a lapse of about four decades, certainly cannot proceed to cancel the assignments. In fact, the Hon'ble Supreme Court, reported in 1996-6-SCC-445 (State of Rajasthan and others V. D.R.Laxmi and others), held that even when there is no third party right is created, delay and laches cannot be justified. In the present case, much water has flown under the bridge and the original assignees have formed a lay out and dealt with the properties to various innocent third parties. Therefore, in the present case, the petitioner's case, stands on a much better footing.

29. Lastly, the learned counsel for the tenth respondent referring to the date of birth of Pitchaiammal on 12.09.1994 and proceedings dated 27.03.1985, pursuant to the notification dated 09.01.1985 was after the death of Pitchaiammal, therefore, the said proceedings were void. However, as rightly contended by the learned counsel for the petitioner, even a void order will have to be challenged, that too, in right earnest. Therefore, as held by the Hon'ble Supreme Court, even when there is no period of limitation for challenging a void order, belated exercise of such challenge or exercise of discretionary power cannot be entertained as it would amount to such exercise of revisional power by itself to be a fraud on statute. Therefore, viewed from any angle, the cancellation of the assignments belatedly and after express acquiescence and waiver by the authorities is clearly unsustainable, in the eye of law. Consequently, the petitioners deserve relief.

30. In fine, this Writ Petition is allowed and the order of



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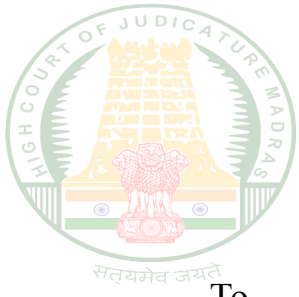
the 7th respondent in Na.Ka.No.4813/2021/A3 dated 21.07.2023 and consequential proceedings bearing No.Na.Ka. No. A3/4813/2021 dated 11.07.2024, are hereby quashed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed."

4.The learned Additional Government Pleader would also fairly submit that the issue in the Writ Petition is covered with the earlier order passed by this Court, however, the respondents are taking a call with regard to the filing of an appeal against the earlier order passed on 19.03.2025.

5.Be that as it may, the fact that the issue involved in the present Writ Petition is squarely covered with the order of this Court in W.P. (MD)No.20483 of 2024, dated 19.03.2025, is not in dispute. Hence, this Writ Petition is also allowed in the similar line with the order passed by this Court in W.P.(MD)No.20483 of 2024, dated 19.03.2025. The impugned orders are, accordingly, quashed. No costs. Consequently, connected miscellaneous petitions are closed.

Index :Yes / No
NCC :Yes / No
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No.100, Santhome High Road,
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P.B.BALAJI, J.

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