



W.P.(MD)No.28525 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : **21.03.2025**

Delivered on : **25.03.2025**

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)No.28525 of 2024

and

W.M.P.(MD)Nos.24196 & 25069 of 2024

Ammaiappan

... Petitioner

/Vs./

1. The Revenue Divisional Officer,
Dindigul District, Dindigul.

2.Selvam

3.Ramesh

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records to the impugned order passed by the first respondent in Na.Ka.No.6614/2024/A4 dated 19.11.2024 and quash the same as illegal.

For Petitioner : Mr.M.Jerin Mathew



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For Respondents : Mr.C.Satheesh
Government Advocate for R1

: Mr.G.Prabu Rajadurai
for M.Maharaja for R2

: Mr.G.Thalaimutharasu
for Mr.T.Palanisamy for R3

ORDER

The petitioner has filed the present writ petition seeking to quash the order of the first respondent in Na.Ka.No.6614/2024/A4 dated 19.11.2024..

2. I have heard Mr.M.Jerin Mathew, learned counsel for the petitioner, Mr.C.Satheesh, learned Government Advocate for the first respondent, Mr.G.Prabu Rajadurai, learned counsel for the second respondent and Mr.G.Thalaimutharasu, learned counsel for the third respondent.

3. The learned counsel for the petitioner would contend that the petitioner has purchased the lands in survey Nos.263/B, 263/D and 263/C and the above lands were assigned by the assignment proceedings dated



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23.02.2001 and patta Nos.684, 685 and 686 were also issued to the petitioner. However, the case of the petitioner is that the first respondent has proceeded to cancel the assignment in favour of three vendors from whom the petitioner has purchased the property.

4. The learned counsel for the petitioner would submit that after purchase of the property on 25.08.2014, the petitioner has taken over possession and has been in absolute possession and enjoyment, without any interference by any third parties and that the petitioner had been doing cultivation in the said lands. The further case of the petitioner is that the third respondent sought for lease of the lands for doing agriculture and approached the petitioner and the petitioner also accepted the said request of the third respondent and executed a registered lease deed dated 27.08.2024. According to the petitioner, the third respondent is doing cultivation and carrying out agricultural activities in the said lands. As there was interference to the third respondent's possession of the subject lands, the third respondent filed W.P.(MD)No.3924 of 2024 to forebear the official respondents from interfering with his possession. The said writ petition was disposed of by this Court by order dated



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21.02.2024, clarifying that quarried minerals will not be through the petition mentioned patta land of the writ petitioner and that the quarry operator will have to adopt some other alternative route. The petitioner claims to be unaware of the dispute between the respondents 2 and 3. According to the petitioner, the impugned order is vitiated on three grounds. Firstly, the impugned order violated the principles of natural justice; secondly, the order passed by the first respondent is a *malafide* exercise, since the first respondent is an interested party, who has granted lease to the second respondent and therefore, he cannot be a judge of his own cost; and thirdly, the assignment could not be cancelled after a lapse of 10 years alleging violations. He would place reliance on the judgment the Hon'ble Division Bench of this Court in ***T.Tirumalai Gounder and another V. State of Tamil Nadu and others*** reported in **2010-5-L.W.-289** as well as in W.A.(MD)No.1272 of 2022 (***K.Chinnapandi V. Alagarsamy***) and the case of ***The Commissioner of Land Administration V. K.S.Jarina*** reported in **MANU/TN/5632/2023**. The learned counsel for the petitioner would therefore pray for the petition being allowed.



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5.The learned counsel for the third respondent, Mr.G.Thalaimutharasu, would contend that the third respondent is a lessee from the petitioner and in and by the registered lease deed, the third respondent has taken over the property and after lapse of several years, the petitioner has approached the revenue authorities seeking cancellation of the assignments and such belated exercise is not permissible in law and such similar cancellation of assignments have been come down heavily by this Court. He would also advance the arguments in line with the arguments advanced by the writ petitioner, with regard to the *malafide* exercise of power by the first respondent.

6. The learned Government Advocate, Mr.C.Satheesh, for the first respondent would contend that there is no illegality or perversity in the order passed by the first respondent and no exception can be taken to the said impugned order, since the vendors' of the petitioner had not cultivated the land within a period of 3 years and further they had sold the lands to the writ petitioner, within 10 years and without prior permission from the Revenue Divisional Officer. He would therefore seek for dismissal of the writ petition.



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7. Mr.G.Prabu Rajadurai, the learned counsel for the second respondent would submit that the second respondent has valid quarry rights granted by the District Collector under registered lease deed dated 20.04.1999. He would also refer to the revenue records pertaining to the subject survey number to contend that the lands were clearly not cultivable lands and therefore, the case of the petitioner as well as the third respondent that the agricultural operations have been carried on in the subject lands cannot be countenanced. Additionally, the learned counsel for the second respondent, Mr.Prabu Rajadurai, would contend that the Tahsildar was not a competent authority to grant an assignment and the assignment orders in favour of the petitioner's vendors was without jurisdiction and therefore, null and void. He would take me through the Revenue Standing Order 15(18), where the Tahsildar, is competent to grant assignments only in respect of lands of value up to Rs.10,000/-. Even with regard to the valuable lands, in the case of dry lands, the permissible pecuniary limit for the Tahsildar, to issue assignment is only up to Rs.1,000/- per Acre. He would further invite my attention to the sale deed under which the petitioner has purchased the



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property, to contend that there is no reference to the assignment itself in favour of the vendors, but, instead, it is only stated that the subject properties were ancestral properties of the vendors. The learned counsel further states that none of the decisions which have been relied on by the learned counsel for the petitioner would apply to the facts of the present case, since in the present case, the three assignees had alienated the properties for the first time and admittedly there has been no mutation in favour of the writ petitioner and therefore, the ratio laid down by the Hon'ble Division Benches of this Court and followed in several other matters will not come to the aid of the writ petitioner.

8. I have carefully considered the submissions advanced by the learned counsel for the parties.

9. With regard to the purchase made by the writ petitioner, it is admittedly under registered sale deeds from three assignees, who were issued assignments by the Tahsildar. As regards the competency of the Tahsildar to issue assignment orders, the learned counsel for the petitioner would submit that the petitioner is taken by surprise and this



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contention was never taken before the first respondent and therefore, it would not be open to the second respondent to raise this issue for the first time in this writ petition. No doubt, I find that the competency of the Tahsildar to issue the assignment has not been raised earlier and it is now put forth before me, for the first time. However, I find material even from the typed set of papers filed by the petitioner that the subject lands have been valued at the rate of Rs.13,500/- per Acres. The said error of assumption of jurisdiction of Tahsildar goes to the root of the assignments itself.

10. Even though the learned counsel for the petitioner contends that the issue cannot be raised in this writ petition for the first time, I do not find any impediment for me to take note of the lack of jurisdiction of the Tahsildar, to issue assignment orders in the first place, for the simple reason that even from the typed set of papers filed by the petitioner, there is sufficient material to take note of the value of the subject lands and when the subject lands having a value of clearly more than Rs.1,000/- per Acre (valuable lands) and also Rs.10,000/- in terms of (RSO 15) Board of Revenue, I do not find any prejudice being caused to the petitioner,



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allowing the arguments to be advanced by the learned counsel for the second respondent for the first time here. It would be an exercise in futility to remit the matter only on this ground, especially, since I am satisfied with regard to availability of sufficient documentary evidence to see whether the Tahsildar was the competent authority to issue assignments in the present case.

11. Leaving alone, the issue of competency of Tahsildar to issue assignment orders, when the registered lease deed has been executed by the District Collector, Dindigul in favour of the second respondent as early as on 09.12.1994, it would not have been possible for the Tahsildar have proceeded to assign the very same lands in favour of the vendors of the writ petitioner. The proceedings assigning lands in favour of the vendors of the writ petitioner and the fact that the patta was issued in favour of the vendors on 14.04.2002 would not in any way protect the writ petitioner or come to his rescue. It is not even known how the Tahsildar has granted assignment of lands already passed by the Collector, without even conducting a field inspection.



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12. As rightly contended by the learned counsel for the second respondent, Mr.G.Prabu Rajadurai, in all the cases before the Division Benches of this Court, they were cases where mutation had taken place in the name of alienees themselves and there had been long passage of time between the date of assignment order and the date of cancellation. Therefore, in the present case, when mutation was only in the name of the vendors of the petitioner, the petitioner cannot umbrage under the ratio laid down by the Hon'ble Division Bench in ***T.Tirumalai Gounder's*** case etc. Even as regards the right of the third respondent, as a lessee, he cannot get any better right than his lessor / writ petitioner. The lands have been classified as “Karadu” in the revenue records and the petitioner as well as the third respondent, excepting for the lease deed, have not been able to substantiate actual possession being with the petitioner / third respondent and that agricultural operations have been carried in the subject lands.

13. Yet another contention of the petitioner is that the order is in violation of principles of natural justice and that the petitioner was not put on notice about any of the documents. On going through the order



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impugned in these writ petition, I do not find any infirmity or patent illegality in the findings arrived at by the first respondent. The petitioner has been given ample and sufficient opportunity and he has participated in the proceedings before the first respondent and at this length of time, it is not open to the petitioner to contend that there has been no fair opportunity to the petitioner.

14. As regard malice, the arguments of the learned counsel for the petitioner cannot be countenanced. The attractive argument that a person cannot be a judge of his own cause is put forth. However, I am unable to see the existence of such a fact situation in the present matter, to press into service, the allegation of malice. The second respondent has made an objection to the first respondent, based on which the second respondent has provided opportunity to the writ petitioner and proceeded to enquire into the matter and pass a considered order. Merely because, the second respondent is subordinate to the District Collector, who is the lessor in the lease deed executed in favour of the second respondent, it would not mean that the second respondent can only be an obedient servant to the first respondent and therefore, the order is *malafide*.



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I do not find allegation of malice being reflected at any place in the impugned order. Therefore, the said contention of the petitioner is also rejected.

15. In fine, this writ petition is dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
NCC : Yes / No
LS

25.03.2025

TO:-

1. The Revenue Divisional Officer,
Dindigul District,
Dindigul.



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P.B. BALAJI, J.

LS

Pre-delivery Order made in
W.P.(MD)No.28525 of 2024

Dated:
25.03.2025