



W.P(MD)No.20204 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.08.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.20204 of 2015

R.Rajesh

... Petitioner

Vs.

1.The District Collector,
Kanyakumari District,
Nagercoil.

2.The District Revenue Officer,
Kanyakumari District,
Nagercoil.

3.The Tahsildar,
Kalkulam Taluk,
Kanyakumari District.

4.Hirudaya Kumar

5.Aleena

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents 1 to 3 herein to conduct an enquiry and to take action and to cancel the assignment Patta illegally issued to the 5th respondent herein by the 3rd Respondent vide order No. B3-32382/2001 dated 20.11.2001 Re Sy No. 62/4-6 of Attoor Village, Kanyakumari District on the basis of the petitioners representation before them dated 05.09.2015.



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For Petitioner : Mr.B.Brijesh Kishore

For Respondents : Mr.N.Satheeshkumar
Additional Government Pleader for R1 to R3
: Mr.C.Kishore for R4 & R5

ORDER

Heard the learned counsel on either side.

2. The petitioner has given a representation to the authorities for cancelling the assignment made in favour of the fifth respondent. Since action was not taken, the present writ petition came to be filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to direct the third respondent to enquire into his complaint.

4. I am not persuaded by the submission of the learned counsel appearing for the petitioner. The stand of the learned Additional Government Pleader appearing for the official respondents as well as the contention advanced by the learned counsel appearing for R4 & R5 are one and the same. The petition



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mentioned land was originally classified as 'natham poromboke'.

Assignment patta was issued in favour of Sreedevi in the year 1992. It was cancelled on 20.11.2001 and on the same date, the assignment patta was issued in favour of the fifth respondent. It is stated by the learned counsel for the fifth respondent that originally, 13 persons were given assignment in that village and the assignment was cancelled on the same date ie., on 20.11.2001 and fresh orders were issued in favour of the children of the respective assignees. Thus, the possession of the fifth respondent's family in respect of the petition mentioned land had been officially recognised since 1992. Their case is that even prior to that, they were in possession and enjoyment of the land.

5. It is stated that the suit filed by the fifth respondent against the writ petitioner suffered dismissal and at present, an appeal is pending in A.S.No.27 of 2021 on the file of the Sub Court, Padmanathapuram. Be that as it may, when the competent authority has taken a clear stand that the assignment would not be cancelled, the petitioner has to necessarily work out his remedy in the manner known to law. According to the petitioner, only through the petition mentioned assigned land, they were exercising their right of pathway. If that be so, it is for the petitioner to establish them in the manner known to law. It is not



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possible to grant any relief in this writ petition by giving any direction to the jurisdictional Tahsildar.

6. Leaving open the petitioner's rights and remedies, the Writ Petition is dismissed. No costs.

22.08.2023

Index : Yes / No
Internet : Yes/ No
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To

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G.R.SWAMINATHAN, J.

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