

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.11865 of 2004

M.Rajasekaran

.. Petitioner

Vs.

1. Assistant Commissioner,
Land Reforms
Madurai.

2. Mohammed Joyes

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the entire records leading to the issue of assignment deed, dated 29.06.2002 by the first respondent - Assistant Commissioner Land Reforms, Madurai herein in favour of the second respondent in respect of 0.74 cents of land in Survey No.329/13A2 and 329/2 and quash the same and forbear the respondents from interfering with the peaceful possession of the petitioner in respect of 0.74 cents (0.30.00 ares) of land in Survey No.329/13A2 and 329/2, No.26, Pudur Village, Natham Taluk covered by assignment proceeding bearing No.4/91 dated 17.12.1996 issued by the first respondent herein and covered by patta bearing No.828 dated 14.02.2004 issued by the Tahsildar, Natham Taluk, Natham, Dindigul District.

For Petitioner : Mr.K.Sridhar

For Respondents : Mr.S.Diwakar,
Special Government Pleader for R-1
Mr.R.S.Mohan for R-2

ORDER

The petitioner has come forward with above Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for the entire records leading to the issue of assignment deed dated 29.06.2002 by the first respondent Assistant Commissioner Land Reforms, Madurai herein in favour of the second respondent in respect of 0.74 cents of land in Survey No.329/13A2 and 329/2 and quash the same and forbear the respondents from interfering with the peaceful possession of the petitioner in respect of 0.74 cents (0.30.00 ares) of land in Survey No.329/13A2 and 329/2, No.26, Pudur Village, Natham Taluk covered by assignment proceeding bearing No.4/91 dated 17.12.1996 issued by the first respondent herein and covered

by patta bearing No.828 dated 14.02.2004 issued by the Tahsildar, Natham Taluk, Natham, Dindigul district.

2. Though strong objection has been raised by the first respondent that notice has been issued for the parties to appear with regard to the issuance of patta, the second respondent has filed counter affidavit, wherein, he has made categorical averment that the patta has been assigned to him wrongly and he has no objection for cancelling the same and that the patta has got to be given in favour of the petitioner. The relevant paragraph of the counter affidavit is extracted below:-

"3. I submit that the above allotment was mistakenly made in my favour by the Assistant Commissioner Land Reforms, Madurai. I am a permanent resident of Madurai living in the above place and I am a businessman. The writ petitioner is an agricultural coolie and is in possession of the 0.74 cents (0.30.00 ares) of land in Survey No.329/13A2 and 329/2, No.26, Pudur Village, Natham Taluk, the same being assigned to him. I have verified this after the allotment was made to me and hence I could not take possession. I am now aware of the objection submitted by the writ petitioner I have also sent my representation dated 23.06.2004 by registered post ack. due to the 1st respondent and to the Tahsildar, Natham Taluk, Dindigul District and I have also marked a copy to the writ petitioner, wherein I have explained the present position and sought to cancel my assignment.

4. I submit that I am not interested in the above lands nor am I keen in pursuing any further litigation in the matter. The claim of the writ petitioner is justified and the writ petition is therefore liable to be allowed and justice rendered."

3. Mr.K.Sridhar, learned counsel appearing for the petitioner produced a copy of the proceedings regarding issuance of patta in Patta No.828 dated 07.09.2017 and submitted that the patta stands in the petitioner's name.

4. According to the learned Spl.G.P. appearing for the first respondent, the assignment in favour of the second respondent will have to be cancelled by the authority and for that purpose, the petitioner needs to appear before the first respondent.

5. Taking note of the above submissions, the petitioner shall produce the records before the first respondent, who shall take into account the No Objection of the second respondent as noted above in the counter affidavit and

consider the request of the petitioner with regard to the issuance of patta in favour of the petitioner and assign the land(s) in question to him in accordance with law, within 15 days from the date of production of the records by the petitioner, as the copy of the patta, as discussed supra, has been produced by the learned counsel for the petitioner to show that as on 07.09.2017, the patta stands in the name of the petitioner.

6. With the above observations and direction, the Writ Petition is disposed of. No Costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mm

To

The Assistant Commissioner,
Land Reforms, Madurai.

+ 1 cc to M/s. K. Sridhar, Advocate SR.71150

+ 1 cc to the Government Pleader Sr.71410

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GJ-II(CO)
EU(31/10/2017)

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