

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.09.2017

CORAM

THE HONOURABLE MR. JUSTICE. M.DHANDAPANI

W.P.No.34765 of 2004
and
W.P.M.P.No.41972 of 2004

P.RenuGopal

.. Petitioner

Vs

1.The District Collector,
Villupuram District.

2.The Tahsildar,
Taluk Office,
Thirukovilur 605 757,
Villupuram District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the orders passed by the second respondent in Na.Ka.No.A2/3279/2004, dated 18.05.2004, quash the same and further direct the second respondent to issue patta for the properties measuring 0.68 acres of 2.02 acres in R.S.No.47/1 Thope Poramboke 0.47 acres in R.S.No.47/3 Thope Poramboke and 1.50 acres in R.S.No.21/3 of Battai Poramboke of Murugampadi Village, Thirukkivilur Taluk, Villupuram District to the petitioner.

For Petitioner : Mr.S.Parthasarathy
For Respondents : Mr.K.Bhuvaneswari
Govt. Advocate

O R D E R

The writ petition has been filed challenging the order dated 18.05.2004 passed by the second respondent rejecting the request of the petitioner for assigning the land in favour of him.

2.The case of the petitioner is as follows:

2.1.The petitioner is a retired Ex-serviceman. He joined the Army in 1963 and also took part in the Pakistan War. While he was in service, based on the advertisement dated 04.03.1966 given in a leading news paper, he applied for assignment of land to the Tamil Nadu Government in his native place namely, Atheandal Murukampadi (Post), Thirukovilur Taluk through the Commanding Officer. The Government granted lease to the petitioner measuring an extent 0.68 acre of 2.02 acres in R.S.No.47/1 Thope Poramboke, 0.47 acres in R.S.No.47/3 Thope Poramboke and 1.50 acres in R.S.No.21/3 of Battai Poramboke of Murukkampadi Village, Thirukovilur Taluk, Villupuram District. From that day onwards, he has been in possession and enjoyment of the said lands and he has been paying kist for the same from the year 1972.

2.2.The petitioner applied for grant of patta for the said lands to the District Collector, South Arcot and to the Tahsildar several times from the year 1968 and at last, he applied for patta to the District Collector on 10.3.1980 and 25.3.1980. But, in spite of his representations, the respondents have not granted patta in favour of the petitioner. Hence, earlier, the petitioner filed Writ Petition No.17681 of 1990 seeking for a direction to the Tahsildar, Tirukovilur to issue patta for the lands measuring to an extent of 0.68 acre of 2.02 acres in R.S.No.47/1 Thope Poramboke, 0.47 acres in R.S.No.47/3 Thope Poramboke and 1.50 acres in R.S.No.21/3 of Battai Poramboke of Murukkampadi Village, Thirukovilur Taluk, Villupuram District. This Court disposed of the said writ petition on 16.11.1990 directing the respondents therein to pass orders on merits based on the representations given by the petitioner on 10.3.1980 and 25.3.1980 after affording an opportunity of hearing to the petitioner.

2.3.Thereafter, the petitioner sent a representation to the Collector, South Arcot and also to the Chief Minister on 09.1.1992, for which, the third respondent sent a reply letter dated 12.3.1992 stating that since the wife of the petitioner owns lands in her name, it is not possible to assign the lands stated supra in favour of the petitioner. Though many representations made by the petitioner went on vain, at last, he sent a representation dated 20.11.2003 to the second respondent for conducting fresh enquiry and to grant patta. The second respondent, by his order dated 18.05.2004, refused to grant patta in favour of the petitioner. Aggrieved by the same, the present writ petition has been filed.

3.The learned counsel for the petitioner submitted that though this Court issued a direction to the authority concerned for conducting fresh enquiry and to grant patta, the respondents without conducting enquiry and without giving any opportunity of

hearing, simply passed the impugned order dated 18.05.2004 rejecting the request of the petitioner violating the fundamental rights guaranteed by the Constitution of India on the ground that the family members of the petitioner are having the lands in their names.

3.1.The learned counsel for the petitioner further submitted that since the petitioner is not having any lands in his name and he is paying kist from the year 1972 for the lands mentioned supra and he is an ex-service man, the second respondent, without considering the above aspects, simply rejected the claim of the petitioner. Hence, the impugned order passed by the second respondent is arbitrary and against law and the same is erroneous. Hence, the learned counsel requested this Court to allow the writ petition.

4.Mrs.K.Bhuvaneshwari, learned Government Advocate appearing for the respondents submitted that the petitioner is a non resident of Athiyanthal village, Thirukoilur Taluk, but he is only residing at Chennai and the petitioner is only a lessee of the properties as detailed in his representation. Since the family members of the petitioner are having own lands, the petitioner is not entitled for assignment of lands.

4.1.The learned Government Advocate further submitted that as per Revenue Standing Order 15 (3) (2) (11), those who do not own any land or own less than 3 acres of Dry or 1.50 acres of wet land alone are eligible to get assignment of patta. The petitioner has got 5.75 acres of Dry and 1.35 Acres of Wet land in Murukkampadi and Athiyandal Village and later he settled some lands in favour of his son and he also changed the patta in the name of his son. Therefore, the petitioner is not eligible to get the assignment of lands. In respect of the lands mentioned in R.S.No.47/1 Thope Poramboke, 0.47 acres in R.S.No.47/3 Thope Poramboke and 1.50 acres in R.S.No.21/3 of Battai Poramboke of Murukkampadi Village, Thirukovilur Taluk, Villupuram District, the petitioner only paid the penalty amount and not kist as the said lands were encroached by the petitioner, for which, the Government issued "B" Memos to him. Since the petitioner is not entitled for assignment of lands mentioned supra, the writ petition is liable to be dismissed.

5.Heard Mr.S.Parthasarathy, learned counsel for the petitioner and Mrs.K.Bhuvaneshwari, learned Government Advocate appearing for the respondents.

6.It is seen from the records that , the petitioner had own lands and thereafter, he settled his lands in favour of his son and also changed the patta in the name of his son, more particularly, the alleged lands are classified as Government poramboke, for which, the petitioner sought for assignment. It

is an admitted fact that as per the said Revenue Standing Order, a person, who do not own any land or own less than 3 acres of Dry or 1.50 acres of wet land alone are eligible to get assignment of land. Hence, as per the said Revenue Standing Order, the petitioner is not entitled for assignment of land.

7. In view of the above discussion, this Court is not inclined to interfere with the impugned order passed by the second respondent. Accordingly, the impugned order stands confirmed. The writ petition is dismissed. There is no order as to costs. Consequently, connected W.P.M.P. is closed.

Sd/-

Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

cla

To

1. The District Collector,
Villupuram District.

2. The Tahsildar,
Taluk Office,
Thirukovilur 605 757,
Villupuram District.

+ 1 cc to Mr.S.Parthasarathy, Advocate, SR.63910

+ 1 cc to The Govt.Pleader, SR.64537

W.P.No.34765 of 2004

KS(CO)
NR 23/11/2017

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