



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 01.11.2017

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

WEB COPY

W.P. (MD) No. 9606 of 2016

and

W.M.P (MD) Nos. 7637 to 7639 of 2016

R.S.Baskaran

... Petitioner

Vs.

1. Asst. Commissioner,
(Land Reforms),
Office of Collectorate Tiruchirappalli,
Tiruchirappalli.

2. M. Periyasamy

3. R. Angammal

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the proceedings of the respondent dated 02.04.2008 in Na.Ka.AA1/M.R.4/185B/58.61 and quash the same and direct the respondent to restore the order of Assignment dated 31.03.1991, in MR.IV185-B/58-61/Try in favour of the petitioner.

For Petitioner : Mr.T.Antony Arulraj

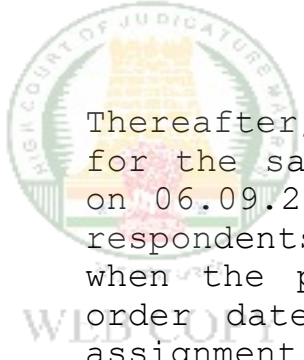
For Respondents : Mr.J.Gunaseelan Muthiah,
Government Advocate for R.1
No appearance for R.2 & R.3

ORDER

This writ petition has been filed by the petitioner seeking a writ of Certiorarified Mandamus to quash the impugned proceedings of the first respondent dated 02.04.2008 and to direct the first respondent to restore the order of Assignment dated 31.03.1991 in favour of the petitioner.

2. The facts of the case, in nutshell, is as follows:

2.1. The petitioner, who is an Ex Servicemen, had applied for Agricultural Land under Ex Servicemen quota and after verification, the first respondent by proceedings dated 31.03.1991, in MR IV/185B/58-61/Try had allotted a land, to an extent of 1.50 Acres in Survey No.125/2P, Sooriyur Village, Trichy District and after following due process of law, necessary assignment order was also issued in favour of the petitioner.



Thereafter, the petitioner had also paid the entire land cost and for the same, he was given with a No Due Certificate as early as on 06.09.2002. While things stood thus, some third parties, viz., respondents 2 & 3 are interfering with his peaceful possession and when the petitioner enquired the same, he was informed that by order dated 02.04.2008, the first respondent had cancelled the assignment order dated 31.03.1991. In the impugned proceedings, it is specifically mentioned that sufficient opportunity was given to the all the parties concerned, including the petitioner herein and due to their non-appearance, the matter was decided in their absence.

2.2. It is the specific case of the petitioner that he had shifted his residence long back and the same was duly intimated to the authorities. In fact the No Due Certificate was also issued to his new address, whereas, the so called enquiry notice was addressed to the old address of the petitioner. Aggrieved by this action of the authorities, the petitioner is before this Court.

3. On the other hand, the learned Government Advocate, fairly conceded that the matter may be remanded back to the authorities for fresh adjudication.

4. Heard the learned Counsel appearing for the petitioner as well as the learned Government Advocate appearing for R1 and perused the documents available on record. There is no representation for respondents 2 & 3, despite notice was served.

5. From the records, it is clear that the petitioner has changed his residential address long back and despite proper intimation to the authorities, no communication regarding cancellation was sent to his new address and recording the absence of the petitioner, the present impugned proceedings came to be passed, which shows the pre-determined mind of the first respondent in cancellation. Such an act of the authorities cannot be countenanced.

6. Under such circumstances as well as recording the submission of the learned Government Advocate, the impugned order is set aside and the matter is remitted to Revenue Divisional Officer, Trichy, who is presently having the jurisdiction. The Revenue Divisional Officer, Trichy, shall pass fresh orders in this subject matter, on merits and in accordance with law, after affording due opportunity of hearing to the petitioner as well as the second and third respondents and all the interested parties, if any, within a period of six weeks from the date of receipt of a copy of this order.

<https://hcservices.ecourts.gov.in/hcservices/>

7. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous



petitions are closed.

/True copy/

Sd/-
Assistant Registrar

Sub Assistant Registrar

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To

1.The Assistant Commissioner,
(Land Reforms),
Office of Collectorate Tiruchirappalli,
Tiruchirappalli.

2.The Revenue Divisional Officer, Trichy.

+1cc to Mr.T.ANTONY ARULRAJ,Advocate,SR. 84914

W.P. (MD) No.9606 of 2016
01.11.2017

gk

KK/SKN RSK/SAR 1/09.11.2017/ 3P- 4C/