



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE C. SARAIVANAN

W.P. (MD) No.2702 of 2014
and
W.M.P. (MD).No.1 of 2014

Mahalakshmi

... Petitioner

vs.

1. The Revenue Divisional Officer,
Usilampatti, Madurai District.
2. The Tahsildhar,
Thirumangalam Taluk,
Madurai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records from the first respondent in his proceedings in Na.Ka.No.7839/2011/m4, dated 15.12.2011 and quash the same.

For Petitioner : Mr.N.Sathish Babu
For Respondents : Mr.A.Thiyagarajan
Government Advocate

O R D E R

This Writ Petition has been filed to call for the records from the first respondent in his proceedings in Na.Ka.No.7839/2011/m4, dated 15.12.2011 and quash the same.

2. The petitioner was assigned 16.0 Ares of land under the Land Assignment Special Scheme for the poor agricultural family, 2006. The petitioner was assigned the land on 11.09.2007 by the order of assignment by the first respondent. The order of assignment contemplates certain conditions to be complied by the petitioner. Though the petitioner was assigned land at S.No.118/19, it appears that the Village Administrative Officer had showed the petitioner the land at S.No.118/16.

3. The petitioner also appears to have applied for soil testing for the aforesaid land, which was shown by the Village Administrative Officer.



4. The copy of soil test report dated 26.09.2007 is enclosed along with the writ petition, indicates that the soil test was conducted on land at S.No.118/16. Petitioner sent several representations including the representation dated 11.02.2013 but was unable to commence agricultural activity and therefore proceed to file Writ Petition No.3823 of 2013.

5. The Court, without going into the merits of the case, directed the respondents to dispose the representation of the petitioner to correct the survey number in the assignment order. However, it appears by the impugned order dated 07.12.2011 bearing reference in Na.Ka.No.13228/11 had already been passed which cancelled the assignment made to the petitioner and 11 others as none of them had initiated agricultural activity contrary to the terms and conditions of the Order of assignment.

6. The learned Government Advocate submits that the respondents were justified in cancelling the order of assignment as none of the assignees mentioned in the impugned order had commenced the agricultural activity. In fact, even the order of assignment also contemplates the soil conservation which was not carried out by any of the assignees and therefore, submitted that the writ petition is liable to be dismissed.

7. The learned counsel appearing for the petitioner submits that the petitioner was in dilemma as to whether he should commence agricultural activity or not and or pursue with the authorities to alter the survey number in the order to regularize the assignment. The learned counsel submits that in view of the above uncertainty prevailing and background, the impugned order has been passed without any notice and it is therefore non-est in law and is liable to be quashed.

8. The learned Government Advocate would further submit that the impugned order passed by the first respondent on the ground that the petitioner had failed to observe the terms and conditions for the assignment order cannot be fulfilled. Therefore, submitted that the present writ petition was liable to be dismissed.

9. The facts of the case is that though assignment was made in respect of land in S.No.118/19, the petitioner was actually shown the land at S.No.118/16 by the Village Administrative Officer in respect of which, the petitioner also carried out soil testing on 25.09.2007. However, in view of the discrepancy noticed in the survey number, the petitioner could not commence the agricultural activity on the S.No.118/19, and therefore cannot be fulfilled as the aforesaid land was not assigned to the petitioner. It appears either the land at S.No.118/19 that was assigned was either occupation of another person or was not available for cultivation for the petitioner. However, these facts are not coming out clearly either in the affidavit or in the counter affidavit filed an behalf



of the petitioner. These aspect will require reconsideration .

10. In view of the above, the impugned order passed by the first respondent in Na.Ka.No.7839/2011/m4, dated 15.12.2011 is set aside and the case is remanded back to the respondents for denovo consideration. The first respondent shall examine the facts and passing appropriate order. If the land at S.No.118/19 that was assigned is identified, the same shall be handed over to the petitioner and appropriate acknowledgement for the petitioner. On the other hand, if the land at S.No.118/19 is not available, the respondent shall allot and assign alternate land and bind the petitioner to such terms as is now being insisted upon.

11. With the above observations, the Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (P&A)

/True Copy/

Sub Assistant Registrar (CS-IV)

To:

1. The Revenue Divisional Officer,
Usilampatti, Madurai District.
2. The Tahsildhar,
Thirumangalam Taluk,
Madurai District.

+ 1 CC TO Mr.N.SATHISH BABU, ADVOCATE IN SR No. 95151

SJI
TE/SV/SAR-4 : 19/12/2018 : 3P/4C

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