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W.P.No.10344 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2022

CORAM

THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

W.P.No.10344 of 2010
and M.P.No.1 of 2010

D.Selva Ganesan

... Petitioner

Vs.

1. The District Revenue Officer,
Vellore District, Vellore Collectorate,
Vellore District.

2. The Revenue Divisional Officer,
R.D.O.Compound, Ranipet Division,
Vellore District.

3. The Tahsildar,
Arcot Taluk Office,
Arcot Taluk, Vellore District.

4. Srinivasan

5. Siva

... Respondents

PRAYER: The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to



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call for the records of the first respondent's order made in R.C.No.84/37018/2008, dated 29.04.2010 in confirming the orders of the second respondent R.D.O., Ranipet made in A4/12241/2004, dated 15.06.2007 and quash the same as illegal, arbitrary and without jurisdiction thereby restore the orders of assignment granted in favour of the petitioner by the third respondent, Tahsildar, Arcot, Vellore District, made in A2/DK-7/1414, dated 08.10.2004.

For Petitioner : M/s.Balasubramaniam
for M/s.C.R.Dhasarathan

For Respondents : Mr.M.Rajendran
1 to 3 Additional Government Pleader

ORDER

The Writ Petition has been preferred against the order of cancellation of the assignment of Patta issued in favour of the petitioner.

2. According to the petitioner, he was in enjoyment of the land measuring 0.07.5 Ares comprised in S.No.348/8 of Nambarai Village, Arcot Taluk, Vellore District and 'B' Memo was also issued by the Revenue Authorities. After expiry of 20 years, he got assignment in his favour in D.K.No.7/1414, dated 08.10.2004 passed by the Tahsildar and paid a sum of



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Rs.9,000/- towards land costs. The Patta bearing No.739 was issued in his favour and he was peacefully enjoying the same. One Kumar, who was in possession of an adjacent land measuring 0.8 cents claimed that he was in possession of the land assigned to the petitioner. All of a sudden, the Tahsildar without enquiry cancelled the assignment of patta issued on 08.10.2004 to the petitioner in Proceedings Na.Ka.No.A4/12241/2004, dated 15.06.2007 in respect of land measuring 0.07.5 Ares comprised in S.No.348/8 of Nambarai Village, Arcot Taluk, Vellore District. The appeal filed before the District Revenue Officer was not taken up. Under the influence of the respondent Nos.4 and 5, his henchmen brought a dead body and buried the same in the disputed land assigned to the petitioner. Since the appeal preferred before the District Revenue Officer was pending without disposal, the petitioner preferred a Writ Petition in W.P.No.4485 of 2010 in which, the High Court issued a direction to dispose of the appeal within a period of four weeks by its order dated 04.03.2010. The first respondent herein erroneously believing the words of the respondent Nos.4 and 5, dismissed the petitioner's appeal.



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3. Resisting the allegations made by the petitioner, the official

respondents have filed a detailed counter affidavit. According to the respondents, the main allegation of the petitioner was that he was not given opportunity of hearing by the second respondent during the enquiry. Considering the same, an enquiry was conducted after issuing notice to the petitioner and other parties. After a full-fledged enquiry, the impugned order came to be passed. The petitioner is a wealthy landlord owning more than 0.51.5 Hectares of land in Nambarai Village. He encroached upon the lands adjacent to his lands, which is classified as "Punjai Anatheenam". Considering his possession, the third respondent issued patta in respect of 0.07.5 Hectares. This was opposed by the residents of the village as it was used as a burial ground for a long time. The Government is also not having any communal grounds. Therefore, in the public interest, the assignment granted was cancelled. Since the petitioner is in possession of the huge extent of lands, the cancellation will not prejudice the petitioner and the classification of the land as burial ground is justified. Therefore, the petitioner is not entitled to the relief sought for by him.



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4.Mr.Balasubramaniam, junior counsel on record would submit that Mr.C.R.Dhasarathan, learned counsel for the petitioner is no more and he has no instruction from his client.

5.This Court, after considering the fact that the issue involved in this writ petition is borne out by records, is not inclined to dismiss the writ petition for no instructions. Considering the long pendency of the writ petition, it is decided to dispose of the same on merits on the basis of the available records.

6.From the perusal of the records, it is noted that the petitioner undisputedly owns 0.51.5 Hectares of lands in Nambarai Village. According to him, he was in possession of Government land measuring an extent of 18 cents and "B" Memo was issued in his favour. Admittedly, patta was also granted in respect of 0.07.5 Hectares. The said land was used by the villagers as a burial ground. Though the report of the Village Administrative Officer is otherwise, it is found that the main objection of the petitioner is against usage of the land as burial ground. Otherwise, he has no right to



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hold the Government land. The patta granted in his favour was also cancelled after conduct of a full-fledged enquiry. The petitioner was given ample opportunity by the first respondent. There is no complaint against the conduct of enquiry in respect of the cancellation of patta. The impugned order of cancellation was made taking into consideration the public interest.

7.It is submitted by the learned Additional Government Pleader appearing for the respondents 1 to 3 that there are no communal lands for public utility. Therefore, this piece of land is required for the villagers for the purpose of burial ground. Hence, patta granted was cancelled. In so far as the assignments are concerned, the Government is entitled to cancel the same and resume the land for public purposes.

8.Admittedly, the petitioner is not a landless poor to get the assignment for a very smaller extent. On the other hand, he is a landlord possessing larger extent of lands. Therefore, it is clear that the purpose of cancellation of the land assigned to the petitioner was of public interest. The public interest will always prevail over an individual interest to hold the



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land. Therefore, I consider that the cancellation of patta was for a reasonable cause in the interest of the villagers. The impugned order passed by the respondents thus, does not warrant any interference.

9.In fine, the writ petition merits no consideration and accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Speaking / Non-speaking order
asi/tk

To

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M.GOVINDARAJ, J.

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