

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2020

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.20547 of 2011
and M.P.No.2 of 2011

K.Ravi

...Petitioner

Vs.

1. The Secretary,
Government of Tamil Nadu,
Land Administration Department,
Fort St. George, Chennai - 600 009.
2. The Director of Land Reforms,
Ezhilagam, Chepauk, Chennai - 600 005.
3. The Assistant Commissioner and
Authorized Officer (Land Reforms),
Third Floor, Jawan's Bhavan, Erode.

4.Prema
5.Uma

... 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 records of the third respondent dated 10.11.2010, in his proceedings No.MR4/61/17/-701-C1, to quash the same and consequently direct the third respondent to delete the entries made in Village and Taluk Accounts pursuant to the impugned order.

For Petitioner : Mr.C.Prabakaran

For Respondents

R1 to R3

: M/s.A.Madhumathi

Special Government Pleader

R4 & R5

: No appearance

O R D E R

Heard Mr.C.Prabakaran, learned counsel appearing for the petitioner and M/s.A.Madhumathi, learned Special Government Pleader appearing for the respondents 1 to 3.

2.The petitioner seeks for issuance of writ of Certiorarified Mandamus, to quash the proceedings dated 10.11.2010 passed by the third respondent and to direct the third respondent to delete the entries made in the Village and Taluk accounts which reflect the names of the respondents 4 and 5 who have been granted the lands in question for the purpose of cultivation.

3.The petitioner claims that he was cultivating the land though the land was originally assigned to some third party, namely, Tmt.Varadhammal. The authorities found that the said Tmt.Varadhammal was not in cultivation of the property and therefore initiated proceedings and the assignment granted in her favour was cancelled. Challenging the same, the said Tmt.Varadhammal filed an appeal before the District Revenue Officer (Land Tribunal), Thanjavur, who by order dated 31.12.1996, dismissed the appeal. In the appeal petition, the petitioner intervened and stated that he is cultivating the lands and the assignment granted in favour of Tmt.Varadhammal having been cancelled, the lands may be assigned to the petitioner. One other person, by name, Murugan also made a similar prayer before the District Revenue Officer (Land Tribunal). The Tribunal by its order dated 31.12.1996 while dismissing the appeal petition of Tmt.Varadhammal cancelling the assignment orders granted in her favour by the Assistant Commissioner (Land Reforms), Erode dated 11.07.1991 directed the Assistant Commissioner (Land Reforms) to issue notice and give opportunity and consider the request to assign the land to the two petitioners, namely, the writ petitioner K.Ravi and one Murugan provided they are eligible to get assignment under the Tamil Nadu Land Reforms Disposal of Surplus Land Rules, 1965.

4.The petitioner's case is that though such a direction and several representations were made, their plea was not considered, whereas the respondents 4 and 5 were granted the assignment vide order dated 02.10.2002. The petitioner not being able to obtain any relief by way of representation, filed an appeal before the District Revenue Officer (Land Tribunal) and the appeal is still pending and yet to be disposed of. The petitioner in the meantime submitted further representation and has come forward with this writ petition to challenge the order dated 10.11.2010 which is a consequential order to the order

dated 02.10.2002 granting assignment in favour of the respondents 4 and 5 because by the impugned order further proceedings were directed to be done by issuance of Form F to the respondents 4 and 5 and consequently enter their names in the revenue records. Once again, the petitioner has given several representations but the same have not been considered. Therefore, the petitioner moved this Court by way of a writ petition in W.P.No.25909 of 2010 which was disposed of by order 01.02.2011 by directing the appeal to be considered as and when the Appellate Authority is constituted and time frame was also fixed for disposal of the appeal. Despite that, nothing has happened. Therefore, the petitioner is before this Court for the second time challenging the consequential communication dated 10.11.2010 pursuant to the order of assignment dated 02.10.2002 granted in favour of the respondents 4 and 5.

5.It is the case of the learned counsel for the petitioner that the respondents 4 and 5 are not persons who are eligible to be granted assignment under the relevant rules. Firstly, they are the daughters of the former VAO which has prompted the authorities to grant assignment and there are no merits in the grant. Further, the Land Tribunal had issued specific direction to consider the claim of the petitioner and one Murugan, the petitioner's claim was not considered nor any notice was issued to the petitioner by the third respondent prior to issuing order of allotment dated 02.10.2002 in favour of the respondents 4 and 5. That apart, the learned counsel submitted that both the respondents 4 and 5 were married and they are settled in a different village. In support of such a stand, the petitioner has filed the voters list to show that the place of residence is not in Polayampalli Village, Harur Taluk, Dharmapuri District.

6.In the considered view of this Court, these contentions should be first canvassed before the District Revenue Officer (Land Tribunal) because he is the Appellate Authority and it is the said authority who has to consider the correctness of the order passed by the third respondent dated 02.10.2002 granting assignment in favour of the respondents 4 and 5. In the counter affidavit filed on behalf of the respondents 1 to 3, it has been stated that the Government has disbanded the post of District Revenue Officer (Land Tribunal) and in this connection, notification has been published in the Tamil Nadu Government Gazette dated 07.03.2012 constituting the Land Tribunal in each District (except Chennai District) consisting of Additional Collector/District Revenue Officer, as the case may be, having jurisdiction over their respective District for the purpose of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961. Further, it is stated that the appeal filed before the District Revenue Officer (Land Tribunal) has been transferred to

the District Revenue Officer, Dharmapuri for passing orders and the matter is still pending before the said authority and no order of stay has been granted and the petitioner is at liberty to put forth his grievance before the District Revenue Officer. In the light of the stand taken in the counter affidavit, the only course open to the petitioner is to pursue his appeal petition filed initially before the Land Tribunal now transferred to the file of the District Revenue Officer, Dharmapuri. Further, it is seen that the District Revenue Officer, Dharmapuri has already issued notice to the petitioner calling upon them to attend an enquiry. In such view of the matter, the petitioner should pursue his claim before the District Revenue Officer.

7. In the result, the writ petition is disposed of by directing the District Revenue Officer, Dharmapuri to hear the petitioner as well as the respondents 4 and 5 after issuing notice to them and after considering all the documents and their contentions, pass a speaking order on merits and in accordance with law. This direction be complied with within a period of twelve weeks from the date on which the enquiry is complete. It is needless to state that the petitioner can also canvass the correctness of the impugned order dated 10.11.2010 because it is a consequential order consequent upon the grant of assignment by order dated 02.10.2002 which is pending on appeal before the District Revenue Officer, Dharmapuri. The Registry is directed to mark a copy of this order to the District Revenue Officer, Dharmapuri for effective compliance of the direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

cse

To

1. The Secretary,
Government of Tamil Nadu,
Land Administration Department,
Fort St. George, Chennai - 600 009.
2. The Director of Land Reforms,
Ezhilagam, Chepauk,
Chennai - 600 005.

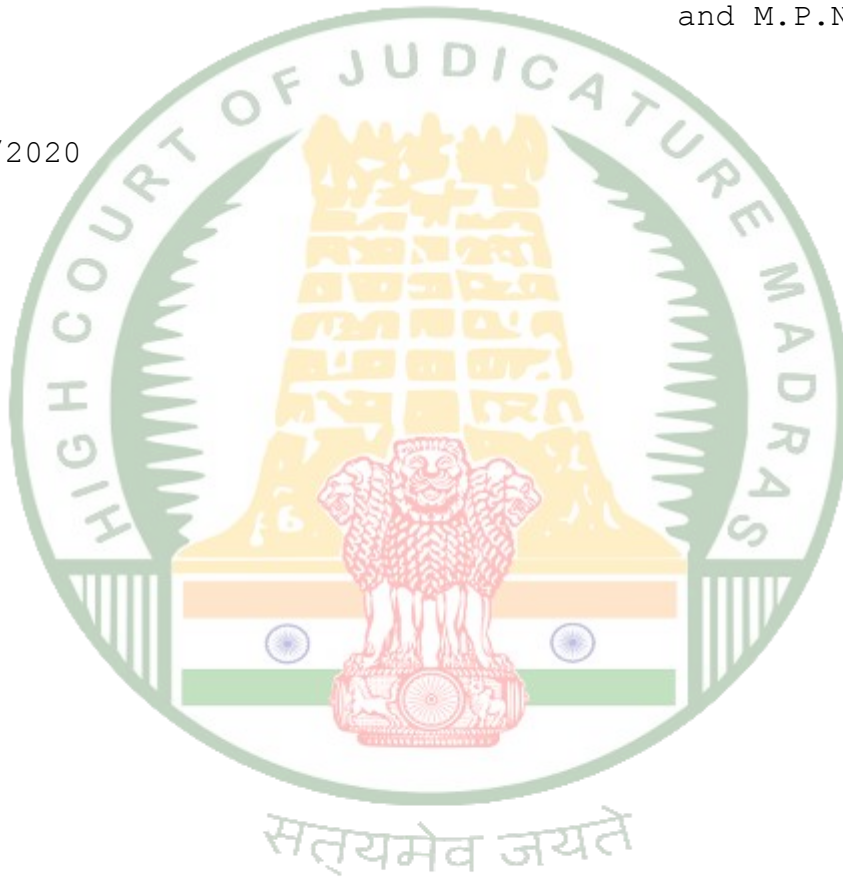
3. The Assistant Commissioner and
Authorized Officer (Land Reforms),
Third Floor, Jawan's Bhavan, Erode.

Copy to: The District Revenue Officer,
Dharmapuri.

+1cc to Government Pleader S.R.No.19731
+1cc tp Mr. C.Prabakaran, Advocate, S.R.No. 19840

W.P.No.20547 of 2011
and M.P.No.2 of 2011

RV(CO)
KKV/19/05/2020



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