

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 04.02.2020
CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No. 3710 of 2016

S. Muniappan

...Petitioner

-vs-

1. The Commissioner of Land Administration,
Ezhilagam, Chepauk,
Chennai - 600 005.
2. The District Collector,
Namakkal District,
Namakkal.
3. The Revenue Divisional Officer,
Tirchengode, Namakkal District.
4. The Tahsildar,
Tiruchengode Taluk,
Namakkal District.

... Respondents

Prayer:Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, call for the records of the 1st respondent F2/22089/2015 dated 16.12.2015 and quash the same as illegal, incompetent and ultravires and consequently direct the respondents to provide the free agricultural lands to the petitioner.

For Petitioner : Mr.K.K.Ramsiddhartha
for M/s. Row & Reddy

For Respondents : Ms. A.Sri Jayanthi
Special Government Pleader

ORDER

Heard Mr.K.K. Ramsiddhartha, learned counsel for M/s. Row & Reddy, learned counsel for petitioner and Ms.A.Sri Jayanthi, learned Special Government Pleader for respondents.

2. With consent of learned counsel on either side, the writ petition itself is taken up for final disposal.

3. This writ petition has been filed by a person, who worked in the Central Industrial Security Force and retired from service on 30.10.2008. The petitioner submitted a representation on 18.11.2014 requesting for assignment of agricultural land in the scheme evolved by the State Government vide G.O.Ms.No.1750, Revenue Department dated 13.05.1963.

4. The petitioner would state that even prior to 2014, he had submitted a representation to the District Collectorate, but the same was not considered. Therefore, the petitioner had approached this Court by filing a writ petition in W.P.No.22679 of 2015 praying for a direction to consider the petitioner's representation. The said writ petition was disposed of by order dated 29.07.2015 directing the 1st respondent to consider and dispose of the petitioner's representation dated 18.11.2014. Pursuant to such direction, the 1st respondent, by order dated 16.12.2015, has rejected the representation stating that an extent of 5 acres of Government land is not available in Paruthipalli village and the survey numbers referred to by the petitioner in his representation is of a lesser extent and without proper approach. Further, the said lands are entered in the Prohibitory Order Book, which is banned for assignment. This order dated 16.12.2015 is impugned in this writ petition.

5. The 3rd respondent has filed a counter affidavit, in which, it is submitted that the petitioner is not in possession of the land referred to in his representation, which are situated in Paruthipalli village and apart from that no other alternate land available for cultivation and it is not possible for the petitioner to cultivate the land, which are scattered in different places. Further, it is submitted by the 3rd respondent that it has been reported that the petitioner is not residing at Paruthipalli village and not in possession and enjoyment of the above said lands. The benefit of the Government Order in G.O.Ms.No.1750 can be extended subject to availability of land in the village. Further, it is submitted that according to the revenue Standing Order No.15, Section-II para 3(II)(a) "The serving personnel or Ex-serviceman are eligible for assignment of Government waste land (available for assignment) only for bonafide rehabilitation and the assignment to the serving personnel and Ex-serviceman cannot be claimed as a matter of right."

6. Further, it is reiterated that the survey numbers of the land, which have been mentioned by the petitioner are not available for assignment. Further, pursuant to representation given by the petitioner dated 18.11.2014, the matter was

personally enquired and inspected by the respondents 3 and 4 and a report was sent to the 2nd respondent and after scrutinising by the 2nd respondent a detailed report was sent to the 1st respondent and based on the report, the 1st respondent has rejected the request of the petitioner by the impugned order. Further, it is contended that as of now non-availability of lands, even for Government lands, is a common problem and the claim of the petitioner has been rightly rejected on the basis of non-availability of suitable lands and the petitioner cannot claim assignment of land as a matter of right.

7. It is true that assignment of Government land cannot be claimed as a matter of right by any personnel. However, it is seen that the Government has evolved a scheme as early as in the year 1963 in G.O.Ms.No.1750, in which, certain preference has been given to serving defence personnel and ex-serviceman. The petitioner sought to take advantage of the said scheme. If according to the respondents, the petitioner is disqualified from availing the benefit of scheme, they should have said so. However, the only reason stated in the impugned order is with regard to the non-availability of the land in Paruthipalli village and the land, which the petitioner has sought assignment is non-capable of being granted on assignment because the said land has been entered in the Prohibitory Order Book. Thus, it is clear that the petitioner's eligibility has not been questioned by the respondents though in the counter affidavit of the 3rd respondent there is a reference stating that the petitioner is not a resident of the village. It is not clear as to whether that is the pre-condition for grant of assignment. In any event, if there are conditions, which have to be fulfilled by a Ex-serviceman to be eligible under the G.O.Ms.No.1750, then it will open to him to comply those conditions and the petitioner having realised that he cannot have extent of 5 acres of land on assignment because there is an impact in the village, has now made a plea before this Court that a meagre extent also can be considered for allotment. However, if that is the present state, then the petitioner has to approach the authority afresh with a representation.

8. In the event of approaching the authorities with a representation identifying other lands, which may be suitable for assignment, though the extent is not 5 acres in a compact block, then it will be open to the 2nd respondent to consider his request de-horse the facts that the earlier request has been rejected by the impugned order. This observation is made by this Court because the earlier request was rejected as the lands in survey No.258/2 is not capable of being assigned as it is entered in the Prohibitory Order book.

9. In the light of the above, while not interfering with the impugned order, liberty is granted to the petitioner to submit a fresh representation, in which, it is open to the petitioner to point out other Government lands, which may be considered for assignment. Further, such representation is made, then the 2nd respondent is directed to call for a report from the respondents 3 and 4 and on receipt of the report, the 2nd respondent shall consider the representation on merits and in accordance with law and it goes without saying that the petitioner's eligibility for grant of assignment of land under G.O.Ms.No.1750 may also be considered. It is reiterated that the direction issued is to be complied with though the earlier request of the writ petitioner was rejected in the impugned order. The request shall be considered by the 2nd respondent within a period of four(4) months from the date on which the representation is made. In the event, the 2nd respondent is able to accept the request of the petitioner then appropriate proposal to be sent to the 1st respondent for passing orders. However, in the event the 2nd respondent decides otherwise, a speaking order be passed and communicated to the petitioner.

With the above observations, the writ petition stands disposed of. No costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

mp

To

1. The Commissioner of Land Administration,
Ezhilagam, Chepauk,
Chennai - 600 005.

2. The District Collector,
Namakkal District,
Namakkal.

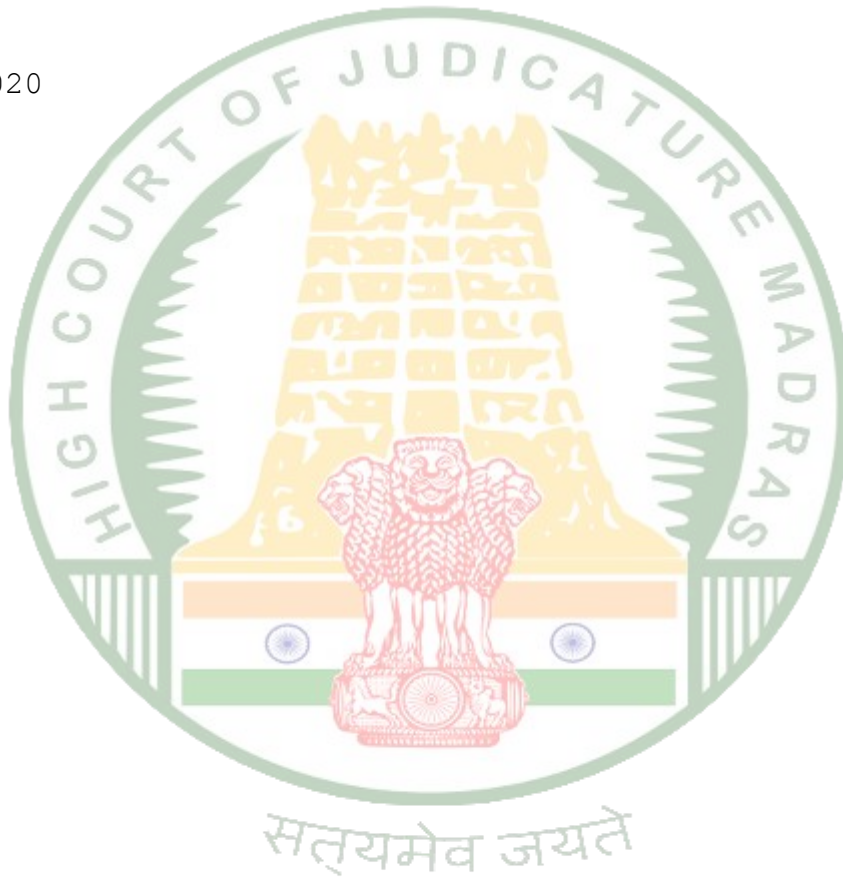
3. The Revenue Divisional Officer,
Tirchengode, Namakkal District.

4. The Tahsildar,
Tiruchengode Taluk,
Namakkal District.

+1 cc to M/s.Row & Reddy Advocate sr9164
+1 cc to the Government Pleader sr9496

W.P.No.3710 of 2016

ssv(co)
aa05/03/2020



WEB COPY