

In the High Court of Judicature at Madras

Dated : 05.2.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.14476 of 2017 & WMP.No.15705 of 2017

G.Thangaraj

...Petitioner

Vs

1.The Principal Secretary & Commissioner  
of Land Administration, Chepauk,  
Chennai-5.

2.The District Revenue Officer,  
Tiruvannamalai District, Tiruvannamalai.

3.The Revenue Divisional Officer,  
Tiruvannamalai District, Tiruvannamalai.

4.The Tahsildar, Tiruvannamalai Taluk,  
Tiruvannamalai District.

5.Tmt.Kasiammal

6.Tmt.Poomallee

...Respondents

PETITION under Article 226 of The Constitution of India  
praying for the issuance of a Writ of Certiorarified Mandamus to  
call for the records on the file of the first respondent in  
proc.No.G2/7672/2017 dated 24.5.2017, quash the same and  
consequently direct respondents 1 to 4 to issue patta transfer  
in favour of the petitioner.

For Petitioner : Mr.D.Bharathy

For Respondents 1 to 4 : Mrs.A.Sri Jayanthi, SGP

## ORDER

I have heard Mr.D.Bharathy, learned counsel for the petitioner and Mrs.A.Sri Jayanthi, learned Special Government Pleader appearing for respondents 1 to 4. In the light of the orders this Court proposes to pass, notice to respondents 5 and 6 is dispensed with.

2. The petitioner has filed this writ petition challenging the order passed by the first respondent dated 24.5.2017, by which, the petitioner's revision petition filed against the order passed by the District Collector dated 16.3.2017 rejecting the request for transfer of patta in favour of the petitioner in respect of the lands in S.F.No.1/4 measuring an extent of 0.69.5 hectare in Kuthalavadi Village, Tiruvannamalai Taluk and District, came to be dismissed.

3. Admittedly, the lands in question are panchami lands and were assigned in favour of the 5th respondent by the proceedings of the Tahsildar, Tiruvannamalai dated 22.1.1973 and patta No.50 was issued in favour of the 5th respondent - the original assignee. According to the official respondents, the assignment is in terms of the Revenue Standing Order 15(41), which imposes a condition that the assignee is not entitled to alienate the land to any person (whether a member of scheduled caste or not), in any manner before the expiry of 10 years from the date of grant not even thereafter except to other members of these castes.

4. Therefore, if the land is assigned in favour of a depressed caste, then the assignee is not entitled to alienate the land to any person within a period of ten years and even thereafter he can do it only in favour of any other person belonging to any other depressed caste.

5. The petitioner's case is that the 5th respondent - the original assignee availed loan from the 6th respondent and to secure the loan transaction, she had executed certain blank documents, which were utilized by the 6th respondent to transfer the property in her favour showing it as if it is a sale transaction. However, patta No.50 continues to be in the name of the 5th respondent. The petitioner submits that he belongs to depressed community and is entitled to assignment of panchami lands and that therefore, he purchased the same in the year 2015. After purchase of the lands in question, he is stated to be in continuous possession and had applied for change of patta in his favour by application dated 07.2.2016. This application was rejected by the Tahsildar vide order dated 10.6.2016.

6. Aggrieved by the same, the petitioner preferred an appeal to the third respondent, who rejected the appeal petition by order dated 24.10.2016, against which, the petitioner preferred further appeal to the second respondent on 11.11.2016, which was rejected vide order dated 16.3.2017. Challenging the order dated 16.3.2017, the petitioner preferred a revision petition before the first respondent on 10.4.2017 and it was also rejected by order dated 24.5.2017, which is impugned in this writ petition.

7. The Revisional Authority examined the case as projected by the original assignee namely the 5th respondent and found the same to be factually incorrect because the 5th respondent executed a registered sale deed in favour of the 6th respondent, who did not belong to a depressed caste community thereby violating the relevant Revenue Standing Order.

8. On a perusal of the impugned order, it is seen that the case as projected by the 5th respondent is factually incorrect because she executed a registered sale deed in favour of the 6th respondent. Therefore, it is clear that there has been a violation of the condition of assignment. However, one factor, which strikes the conscience of this Court, is with regard to the long duration, during which, the 6th respondent is stated to have been in possession of the properties. As seen above, the assignment in favour of the 5th respondent was in the year 1973. She sold the properties in favour of the 6th respondent in the year 1995, from whom, the petitioner effected purchase in the year 2015. However, the patta continues to remain in the name of the 5th respondent.

9. Coupled with the above facts, it is to be noted that the petitioner also belongs to a depressed caste community and therefore, in his individual capacity, had he made an application subject to eligibility, he would have been granted assignment of panchami lands for cultivation purposes. Therefore, this Court is of the view that a mere compassionate stand is required to be taken in the instant case, of course, subject to the petitioner fulfilling the eligibility criteria for assignment of panchami lands.

10. For all the above reasons, while confirming the order passed by the first respondent, the writ petition stands disposed of by giving liberty to the petitioner to apply to the second respondent within three months from the date of receipt of a copy of this order, along with a copy of this order, for allotment of the very same lands in his favour and the second respondent is directed to consider the application. If it is

found that the petitioner fulfills the criteria fixed for grant of assignment of panchami lands, then the second respondent is directed to consider the same and pass orders on merits and in accordance with law. Till such a decision is taken, the petitioner's possession and enjoyment of the lands in question shall not be interfered with, if he still continues to remain in possession. No costs. Consequently, the connected WMP is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

RS

To

- 1.The Principal Secretary &  
Commissioner of Land Administration,  
Chepauk, Chennai-5.
- 2.The District Revenue Officer,  
Tiruvannamalai District, Tiruvannamalai.
- 3.The Revenue Divisional Officer,  
Tiruvannamalai District, Tiruvannamalai.
- 4.The Tahsildar, Tiruvannamalai Taluk,  
Tiruvannamalai District.

+1cc to Mr.D.Bharathy, Advocate SR.8829

+1cc to the Government Pleader SR.10006

WP.No.14476 of 2017&  
WMP.No.15705 of 2017

BR(CO)  
CB(28/02/2020)

सत्यमेव जयते

WEB COPY