



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**Order Reserved on: 08.09.2020**

**Order Pronounced on :16.09.2020**

**CORAM:**

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR**

**W.P. (MD)No.10143 of 2020**

**and**

**W.M.P (MD)Nos.9025 & 9027 of 2020**

A.Thavamani

... Petitioner

**Vs.**

- 1.The Principal Secretary to Government,  
Revenue Department,  
Secretariat Building,  
Chennai - 9.
- 2.The Land Administrative Commissioner,  
Land Administrative Commissioner Office,  
Ezhilagam, Chepauk,  
Chennai.
- 3.The District Collector,  
Collectorate Building,  
Dindigul.
- 4.The Tahsildar,  
Tahsildar Office Dindigul East,  
Dindigul District.

... Respondents

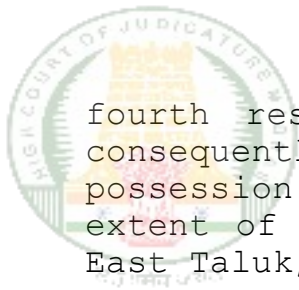
PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the fourth respondent in Na.Ka.No.2976/2020/AA3 dated 21.07.2020 and quash the same as illegal and consequently, directing the respondents not to disturb the peaceful possession of the petitioner's Survey No.843/7 to an extent of 1 acre 52 cents situated at Koovanuthu Village, Dindigul East Taluk, Dindigul District.

|                 |                                              |
|-----------------|----------------------------------------------|
| For Petitioner  | : Mr.V.Illanchezian                          |
| For Respondents | : Mrs.V.P.M.Vaishnavi<br>Government Advocate |

**ORDER**

The petitioner has filed the present writ petition to issue a Writ of Certiorarified Mandamus, to quash the proceedings of the

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fourth respondent in Na.Ka.No.2976/2020/AA3 dated 21.07.2020 and consequently, directing the respondents not to disturb the peaceful possession of the petitioner's property in Survey No.843/7 to an extent of 1 acre 52 cents situated at Koovanuthu Village, Dindigul East Taluk, Dindigul District.

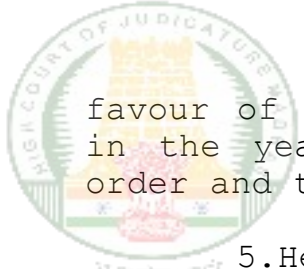
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2. According to the petitioner, originally, the property situated in Survey No.843/7 to an extent of 1 acre 52 cents at Koovanuthu Village, Dindigul East Taluk, Dindigul District was assigned in favour of one Philomeenal in the year 1973 and she enjoyed the property till her life time and after her demise, his son Arockiyam, enjoyed the property. The said Arockiyam executed a power of attorney, dated 07.12.2005 in favour of one Annakamu. On the basis of the said power of attorney, the said Annakamu had executed a sale deed dated 21.12.2005 in respect of the very same survey number in favour of the petitioner and the same was registered, vide Document No.1677 of 2005 on the file of the Sub-Registrar, Dindigul. Pursuant to the registration of the sale deed, the petitioner is in peaceful possession and enjoyment of the said property. Moreover, the petitioner's vendor's name viz., Philomeenal, was found as Assignee in the proceedings in O.Mu.No.43293/08/C2 dated 07.01.2009. Subsequently, the petitioner came to know that the chitta in respect of the said survey number was cancelled by the earlier assignment issued in favour of the petitioner's vendor. In this regard, the petitioner sent a representation dated 22.08.2019 to the respondents not to disturb the petitioner's possession without issuing the cancellation of assignment order. Since no action has been taken on the said representation, the petitioner filed a Writ Petition in W.P(MD) No.5333 of 2020 before this Court and this Court, by order dated 21.07.2020, recording the submissions of the learned Special Government Pleader appearing for the respondents that the above said property is classified as 'Government poramboke' and the same is in possession of the Government and therefore, there is no necessity to issue notice for removal of encroachment, disposed of the Writ Petition directing the fourth respondent to communicate the proceedings of the Tahsildar, Dindigul East, in Na.Ka.No.2976/2020/A3, dated 20.07.2020. Challenging the aforesaid proceedings of the fourth respondent dated 20.07.2020, the petitioner has filed the present Writ Petition.

3. The learned counsel appearing for the petitioner submitted that without affording an opportunity to the affected parties, the cancellation of assignment order was passed in the year 1983, that too after 10 years, as such the assignment order was issued in favour of the petitioner's vendor in the year 1973 and the proceedings of the fourth respondent dated 21.07.2020 is liable to be quashed.

4. The learned Government Advocate appearing for the respondents submitted that based on the assignment order granted in

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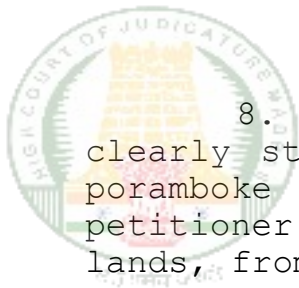


favour of the petitioner's vendor namely Philomeenal was cancelled in the year 1983, the fourth respondent has passed the impugned order and the same need not warrant interference.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents and perused the materials available on record.

6. On perusal of the materials available on record, it is seen that the property comprised in Survey No.843/7 to an extent of 1 acre 52 cents at Koovanuthu Village, Dindigul East Taluk, Dindigul District, was originally assigned in favour of one Philomeenal in the year 1973 and in the assignment order, it has been specifically stated that the said land has to be utilised for the purpose of agricultural purposes. Further, according to the petitioner, she purchased the said property vide Document No.1677 of 2005, dated 21.12.2005 through power of attorney of Arockiyam and the said Arockiyam is said to be the son of the aforesaid Philomeenal. The petitioner sent a representation to the authorities not to disturb the possession without issuing the cancellation of assignment order. Based on the said representation, the fourth respondent has passed the impugned order in Na.Ka.No.2976/2020/A3, dated 21.07.2020 by stating the reason that the aforesaid assignment order granted in favour of Philomeenal, W/o. Joseph was cancelled in the year 1983 on the reason that the petitioner has violated the condition that they are not cultivating the agricultural land. The petitioner has purchased the said property on 21.12.2005, but already the Government had restored the said property, based on the cancellation of the assignment patta granted in favour of Philomeenal in the year 1983. Further, it is seen that the said property was classified as a Government poramboke land. The District Revenue Officer by proceedings dated 18.03.1983 cancelled the assignment order granted in favour of Philomeenal, the original assignee of the property. Pursuant to the cancellation of the assignment order, the authority has taken possession of the aforesaid property. The said property had been in possession of the Government and the petitioner has purchased the said land without verifying the revenue records.

7. On perusal of the typed set of papers filed by the petitioner, it is seen that except the copy of the sale deed dated 21.12.2005 executed in favour of the petitioner, there are no other revenue documents filed to prove the fact that the petitioner's vendors namely Philomeenal or his son Arokiam were in possession of the said property, subsequent to the cancellation order and cultivated the said land under the assignment order. Therefore, in the absence of any revenue records or materials, the contention of the petitioner that she has been in possession of the said property is unsustainable and the same is liable to be rejected.



8. On the contrary, in the impugned order itself, it has been clearly stated that the said land was classified as a Government poramboke land in the year 1983 itself. But, the petitioner or the petitioner's vendor has not taken any steps to reclassify the said lands, from the date of cancellation of patta.

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9. Considering the facts and circumstances of the case and taking note of the fact that though the assignment order granted in favour of the petitioner's vendor namely Philomeenal was cancelled as early as in the year 1983, the petitioner or her vendors have not come forward to approach the authorities concerned to reclassify the said land and further in the absence any materials to prove her stand that they have been in possession and enjoyment of the said land for the past 37 years, this Court has no hesitation to reject the claim of the petitioner. Prima facie, no case is made out to entertain the Writ Petition, consequently, the Writ Petition is liable to be rejected on merits as well as on laches.

10. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Note:- In view of the present lock down owing to COVID - 19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1. The Principal Secretary to Government,  
Revenue Department,  
Secretariat Building, Chennai - 9.
2. The Land Administrative Commissioner,  
Land Administrative Commissioner Office,  
Ezhilagam, Chepauk, Chennai.
3. The District Collector,  
Collectorate Building,  
Dindigul.



4.The Tahsildar,  
Tahsildar Office Dindigul East,  
Dindigul District.

+1 CC to Mr.V.ILLANCHEZIAN, Advocate (SR-17069[F]dated 16/09/2020 )  
+1 CC to SPL GP ( SR-17246[F] dated 17/09/2020 )

Order made in  
W.P. (MD) No.10143 of 2020  
16.09.2020

VB (23.09.2020) 5P 7C