



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2021

CORAM

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.13298 OF 2013

AND

M.P.NO.1 OF 2013

Anbalagan

... Petitioner

.Vs.

1. The Additional Chief Secretary and
Commissioner of Revenue Administration
and Commissioner of land Administration,
Chepauk, Madras 5.

2. The District Revenue Officer,
Vellore.

3. The Tahsildar, Arakonnam,
Vellore District.

4. Kannaiya Naidu

... Respondents

(R4 is suo - motu impleaded as per order dated 01.11.2016 by
MSRJ in W.P.No.13298 of 2013)

PRAYER:-

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records on the file of the 1st respondent in proceedings ROC.No.G1/7842/2009 dated 10.04.2013 and quash the same as illegal, incompetent and without jurisdiction and further restore the assignment of Patta granted in favour of the petitioner made by the 3rd respondent on 03.01.20008 in DKT 276/1417.

For Petitioner : Mr.V.Raghavachari

For Respondents : Mr.M.R.Gokul Krishnan
1 to 3 Government Advocate

For Respondent 4 : Mr.P.Krishnan



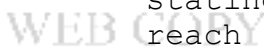
O R D E R

This Writ Petition is filed to issue a Writ of Certiorarified Mandamus to call for the records on the file of the 1st respondent in proceedings ROC.No.G1/7842/2009 dated 10.04.2013 and quash the same as illegal, incompetent and without jurisdiction and further restore the assignment of Patta granted in favour of the petitioner made by the 3rd respondent on 03.01.2008 in DKT 276/1417.

2. The case of the petitioner is that the land comprised in Survey Number 146, to an extent of 0.21.5 Hectare in Keezhikuppam Village was assigned to the petitioner by the third respondent on 31.01.2008, after the concurrence of the village panchayat. The petitioner belongs to Adi Dravidar community and he is also a landless poor. The fourth respondent raised objection that he is in enjoyment of the subject property for the past 40 years and cultivating the said land and therefore, the assignment issued in favour of the petitioner is illegal.

3. The wife of the petitioner is working in the Postal Department and she is drawing a salary of more than Rs.24,000/- per annum. Therefore, the second respondent cancelled the assignment issued in favour of the petitioner. Aggrieved by the same, the petitioner preferred an appeal before the first respondent. The first respondent also rejected the same. Hence, this writ petition.

4. The third respondent filed a counter stating that on the objections raised by the fourth respondent, the second respondent conducted enquiry. On receipt of the report from the Revenue Divisional Officer, the first respondent concluded that the impugned assignment made to the petitioner is wrong and issued orders, cancelling the same. The petitioner is not a native of the said village and he is not in enjoyment of the land in question comprised in Survey No.146 situated at Kilkuppam Village. The family income of the petitioner also exceeds the limit for free assignment of patta to the poor people. The conditions for assignment of lands as laid down in the revenue standing orders has not been fulfilled in the case of the petitioner and as such, the first respondent also dismissed appeal. It is also revealed that the fourth respondent is now cultivating the said land and also produced photographs of cultivation by the fourth respondent herein. The fourth respondent has encroached the subject property and he has been cultivating the land, even after the order passed by respondents 1 and 2 herein. Therefore, notice under Section 7 of the Encroachment Act, 1905, has been served by the third respondent to the fourth respondent. Even then, the fourth respondent



5. The fourth respondent has also filed a counter affidavit stating that the assignment property has no access or pathway to reach the said land. The fourth respondent is cultivating sugarcane in the said land, along with the patta land. Without considering the same, the petitioner was assigned the subject property and as such, he raised objections to cancel the assignment granted in favour of the petitioner and also consequently, prayed to assign the said land in his favour. On the objections raised by the fourth respondent, the second respondent cancelled the assignment issued in favour of the petitioner. Aggrieved by the same, the petitioner preferred an appeal and the same was also dismissed.

7. Heard Mr.V.Raghavachari, learned counsel for the petitioner and Mr.M.R.Gokul Krishnan, Government Advocate for the respondents 1 to 3 and Mr.P.Krishnan, learned counsel for the respondent 4.

9. Though the petitioner belongs to Adi Dravida community he is not residing in the said village and the land is situated adjacent to the patta land of the fourth respondent herein. The policy of the Government is to uplift the landless poor by



assigning the land belonging to the Government, by following the relevant provisions contemplated in the Revenue Standing Orders No.15. When the petitioner failed to fulfilled the conditions, the respondents 1 and 2 have rightly cancelled the patta order of assignment granted in favour of the petitioner herein. As far as the fourth respondent is concerned, he is a wealthy person owning about 10 acres of land.

10. In fact, the fourth respondent has categorically admitted in his affidavit that he is cultivating the subject-property and he planted paddy crops. At the time of inspection by the Revenue Officials, he has planted sugarcane crops in the subject land. Therefore, he is a rank encroacher and it is also evident from the photographs produced by the fourth respondent. The said land, classified as Anadheenam, belongs to Government.

11. The third respondent initiated action to remove the encroachment of the fourth respondent under the Encroachment Act, 1905. The fourth respondent was served with notice under Section 7 of the Encroachment Act, 1905.

12. Even then, the fourth respondent refused to remove the encroachment from the subject land. Therefore, the petitioner as well as the fourth respondent are not entitled for any assignment. This Court finds no infirmity or illegality of the orders passed by the respondents 1 and 2 and this writ petition is dismissed as devoid of merits.

13. Accordingly, this writ petition is dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is also dismissed. However, the second and third respondents are directed to take immediate action as against the fourth respondent under the Encroachment Act 1905 in accordance with law. The proceedings should be completed within a period of eight weeks from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

rna



To

1. The Additional Chief Secretary and
Commissioner of Revenue Administration
and Commissioner of land Administration,
Chepauk, Madras - 5.

2. The District Revenue Officer,
Vellore.

3. The Tahsildar,
Arakonnam,
Vellore District.

+1cc to the Government Pleader, S.R.No.42692

W.P.NO.13298 OF 2013 AND
M.P.NO.1 OF 2013

GPL(CO)
PBS/17/09/2021