

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.26459 OF 2013

AND

M.P.NOS.3 OF 2013 AND 1 OF 2014

E.Sathyapriya

...Petitioner

Vs

- 1.The District Collector,
O/o. the Collectorate,
Cuddalore District - 607 001.
- 2.The District Revenue Officer,
O/o. the Collectorate,
Cuddalore District - 607 001.
- 3.The Revenue Divisional Officer,
R.D.O. Office, Virudhachalam,
Cuddalore - 606 001.
- 4.The Tahsildar
Tahsildar Office,
Thittakudi Taluk,
Cuddalore District.

5.S.Thangavel

...Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the 3rd and 2nd respondents in its Ref.Nos.Pa.Mu.A3/4075/2012 dated 02.03.2013 and Na.Ka.V3/7457/2013 dated Nil-May 2013 respectively and quash the same as it is illegal, passed without jurisdiction, void ab initio.

For Petitioner : Mr.V.Subramanian
for Mr.M.A.Muthalakan

For R1 to R4 : Mr.S.Rajesh
Government Advocate

For R5 : Mr.C.Vediappan
for M/s.C.S.Associates

ORDER

This writ petition has been filed to issue a Writ of Certiorari, to call for the records pertaining to the impugned orders passed by the 3rd and 2nd respondents in its Ref.Nos.Pa.Mu.A3/4075/2012 dated 02.03.2013 and Na.Ka.V3/7457/2013 dated Nil-May 2013 respectively and quash the same as it is illegal, passed without jurisdiction, void ab initio.

2. The case of the petitioner is that her husband was assigned land comprised in S.No.51/3 ad-measuring to an extent of 0.38.0 acres under Patta No.529 by the 4th respondent in his proceedings No.DKT/02/1422F, dated 04.08.2012 under a scheme of 'Free Land Distribution Scheme' for landless poor. It was questioned by the 5th respondent by way of appeal before the 3rd respondent. After issuance of notice to the petitioner, the 3rd respondent set aside the assignment granted in favour of the petitioner's husband by an order dated 02.03.2013. However, the petitioner or her husband did not prefer any appeal as against the cancellation of assignment. The 5th respondent filed appeal before the 2nd respondent seeking assignment of patta in his favour. In the said appeal, the petitioner was not a party and the 2nd respondent conducted enquiry and ordered to assign the land in favour of the 5th respondent.

3. Now, the petitioner challenged the order passed by the 2nd respondent in this writ petition on the ground that the petitioner was not served any notice in the appeal filed by the 5th respondent before the 2nd respondent and she was not heard and passed the impugned order.

4. The 5th respondent challenging the assignment order before the 3rd respondent on the ground that the assignee neither resided in Lakshmanapuram Village nor was enjoying the subject property. It is irregular or unlawful to assign the subject property to a person residing in other district. The 3rd respondent conducted enquiry and revealed that the petitioner in Lakshmanapuram Village and misguidance of Village Administrative Officer of Lakshmanapuram Village, has led the Tahsildar, Tittagudi for issuance of assignment of patta to an ineligible person. The petitioner's husband was residing in Kariyanoor Village, Veppanthattai Taluk, Perambalur District. Therefore, the 3rd respondent cancelled the assignment issued in favour of the petitioner's husband.

5. Admittedly, no appeal preferred by the petitioner or her husband as against the order passed by the 3rd respondent herein. On the other hand, the 5th respondent filed appeal before the 2nd respondent as against the order passed by the 3rd respondent to

assign the subject property in his favour. That apart, the petitioner failed to produce any piece of revenue records to show that the petitioner is the resident of Lakshmanapuram Village before the 3rd respondent on the enquiry.

6. That apart, on the strength of the assignment order dated 04.08.2012, the petitioner filed a suit in O.S.No.69 of 2013 on the file of the District Munsif Court, Tittagudi for bare injunction in respect of the subject property as against the 5th respondent and others. Subsequently, the said suit was dismissed by the judgement and decree dated 20.10.2016 by the District Munsif Court, Tittagudi. It shows that the petitioner or her husband were never in possession and enjoyment of the subject property, even after assignment of patta in favour of her husband. Whereas, the 5th respondent is in possession and enjoyment of the subject property for the past several decades and without conducting any proper enquiry with the general public and the panchayat, the petitioner's husband was wrongly assigned patta in respect of the subject property. Therefore, the 5th respondent filed appeal challenging the assignment of patta granted in favour of the petitioner's husband.

7. Admittedly, the petitioner's husband is in Dubai and no one is residing in the subject property. In fact, after assignment of patta, the petitioner and her family members disturbed the possession and enjoyment of the 5th respondent on the strength of the assignment of patta. Thereafter, the 5th respondent came to understand about the assignment of the subject property, he filed appeal before the 2nd respondent.

8. Considering the above, the 2nd respondent on the appeal filed by the 5th respondent by an order dated 24.05.2013 concluded that the 5th respondent is eligible to assign the subject property in his favour. Accordingly, the 5th respondent was issued D.K.T. Patta dated 31.07.2013 in respect of the subject property.

9. It is also noticed that after cancellation of assignment of patta by the 3rd respondent herein, the petitioner or her husband did not prefer any appeal as against the same. When the petitioner failed to file any appeal as against the cancellation of assignment of patta, she has no locus to challenge the order passed by the Appellate Authority viz., the 2nd respondent herein on the appeal filed by the 5th respondent herein.

10. In view of the above, this Court finds no illegality or infirmity in the impugned orders passed by the 2nd and 3rd respondents. Hence, this writ petition is devoid of merits and it is liable to be dismissed.

11. Accordingly, the writ petition is dismissed. However, the petitioner made representation dated 19.06.2013 before the 1st respondent and it is kept pending. Considering the above, the 1st respondent is directed to dispose the same, after giving opportunity of hearing to the petitioner as well as the counter parties, if any and pass orders on merits and in accordance with law. Consequently, the connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar

dm

To

- 1.The District Collector,
O/o. the Collectorate,
Cuddalore District - 607 001.
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O/o. the Collectorate,
Cuddalore District - 607 001.
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R.D.O. Office,
Virudhachalam,
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- 4.The Tahsildar
Tahsildar Office,
Thittakudi Taluk,
Cuddalore District.

+1cc to Mr.M.A.Muthulakan, Advocate SR.No.69331

+1cc to the Government Pleader SR.No.69818

W.P.No.26459 of 2013

BSV(CO)
RVM(12/01/2022)