



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving Order
16.09.2021

Date of Pronouncing Order
23.09.2021

CORAM

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

W.P.No.30633 of 2012
and M.P.No.1 of 2012

G.D.Chrystal Jeyamathy

... Petitioner

-vs-

1.The Secretary,
Government of Tamil Nadu,
Department of Revenue,
Fort St. George, Chennai 600 009.

2.The District Collector,
Thiruvallur District,
Thiruvallur.

3.The Commissioner,
Land Administration,
Chepauk, Chennai 600 005.

4.The District Revenue Officer,
Thiruvallur District.

5.The Revenue Divisional Officer,
Ponneri Revenue Division,
Ponneri.

6.The Tahsildar,
Gummidipoondi Taluk,
Gummidipoondi.

... Respondents

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 of the second respondent in the impugned proceedings in R.C.No.4436/2008-B-2, dated 17.09.2012 and quash the same and consequentially direct the respondents to grant patta to the petitioner for the property comprised in Survey Nos.579/1, 2 & 3 of Nemalur Village, Gummidipoondi Taluk,



Thiruvallur District, measuring a total extent of Hectares 1.28.0 Ares, equivalent to Acres 3.16 cents, which was allotted and put in possession of the late freedom fighter G.Devadhas, the father of the petitioner herein.

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For Petitioner : Mr.E.Om Prakash, Senior counsel
Assisted by Mr.P.Elayaraj Kumar
for M/s.Ramalingam & Associates

For Respondents : Mr.Richardson Wilson,
Government Advocate

O R D E R

This Writ Petition is filed to issue a Writ of Certiorarified Mandamus to call for the records of the second respondent in the impugned proceedings in R.C.No.4436/2008-B-2, dated 17.09.2012 and quash the same and consequentially direct the respondents to grant patta to the petitioner for the property comprised in Survey Nos.579/1, 2 & 3 of Nemalur Village, Gummidipoondi Taluk, Thiruvallur District, measuring a total extent of Hectares 1.28.0 Ares, equivalent to Acres 3.16 cents, which was allotted and put in possession of the late freedom fighter G.Devadhas, the father of the petitioner herein.

2. The case of the petitioner is that the petitioner is in possession and enjoyment of the land comprised in Survey Nos.579/1, 579/2, 579/3 to the total extent of Hectares 1.28.0 Ares, equivalent to 3.16 Acres which are classified as "Assessed Tharisu". Originally, her father was being the freedom fighter was put in possession in the year 1980. It was given by the Government to her father as part of assignment of lands at free of cost to political sufferers, ex-servicemen and landless poor farmers, including Freedom Fighters in recognition of their services.

3. While her father was alive, the Government of India sanctioned him freedom fighters pension of Rs.100/- with effect from 17.08.1973 and he died on 04.12.1993. During the life of her father, he approached the respondents for issuance of patta for the land assigned to him. On the request made by her father the 6th respondent sent a communication dated 14.12.1990 to the 5th respondent herein, thereby certifying that he had been receiving freedom fighter's pension at Rs.700/- and his families total income was Rs.1750/- and he owned punja land and house comprised in Survey No.164/4 admeasuring 0.01.0 Hectares.

4. Thereafter, the third respondent herein by communication dated 01.09.1992 ordered to issue patta and by the communication dated 18.11.1992 and directed to take further steps to issue



patta to the petitioner's father. By way of communication dated 26.08.1992, the second respondent also recommended to the land Commissioner for issuance of patta. Likewise, the communication dated 19.03.1992 the name of petitioner's father was recommended for issuance of patta. Thereafter, her father died on 04.12.1993 and the petitioner has been cultivating the same.

5. The petitioner followed the representation of her father and approached the authorities concerned for issuance of patta. On 11.08.2005, the petitioner had sent representation to the third respondent for issuance of patta. By communication dated 05.04.2006 the 6th respondent after field inspection recommended to assign the land at cost of Rs.269/- per cent for the total cost of Rs.85004/- in favour of the petitioner. The 6th respondent also annexed the field inspection report with the recommendation.

6. The 5th respondent by the communication dated 30.06.2008 informed to the 4th respondent about the rate fixed by the 6th respondent for assignment. In fact, the petitioner's statement was also recorded and agreed for the cost fixed by the 6th respondent. Thereafter, the petitioner sent detailed representation dated 24.06.2010 for consideration. On receipt of the same, the third respondent called for report from the second respondent. Again, the 6th respondent by communication dated 24.09.2010 fixed the cost at Rs.428/- per cent and fixed a total cost at Rs.1,35,248/- for the extent of 3.16 acres to assign in favour of the petitioner.

7. However, the Officials concerned had not considered the request for assignment of land and no steps had been taken for assignment of land. Therefore, the petitioner filed writ petition in W.P.No.28848 of 2011 before this Court and this Court by order dated 30.03.2012 directed the respondents to take a final decision on the representation of the petitioner within a period of three months. It was further directed that while considering the representation of the petitioner, the respondents should consider the assignment of land which was initially allotted and the petitioner's father was put in possession under the category of freedom fighter. The second respondent after conducting inquiry passed order and thereby rejected the request of the petitioner for assignment of land.

8. Per contra, the 6th respondent filed counter and stated that the subject land admeasuring 1.28.0 Hectares a poramboke land, was encroached by the petitioner's father. He expired on 04.12.1993. Subsequently, the petitioner has encroached upon the subject land. However, the 5th respondent initiated the proceedings for grant of assignment to the petitioner's father on collection of the land value. The third respondent raised



queries regarding the petitioner concerned to pay the cost to be fixed by the appropriate authority.

9. In the mean time, the petitioner approached this Court and this Court directed to considered the petitioner's request and after conducting due inquiry, the request for assignment was rejected. The petitioner failed to satisfy any of the conditions as laid down in the Revenue Standing Order 15-3(ii) and in order to preserve the availability of the Government poramboke lands in Tiruvallur District, as it is located in close proximity of the State Headquarters for future general and public purpose, the request of the petitioner was rightly rejected by the second respondent.

10. The grant of assignment to the petitioner's father could not be considered as he was no more when the assignment was sought for. There is no provisions under the Revenue Standing Order for assignment of land at free of cost to the legal heirs of the political sufferers. Therefore, the second respondent is bound to consider the request of the petitioner for the assignment of land in the light of the existing provision under the Revenue Standing Order. The grant of assignment of land in question was considered with the reference to rules in force at present and has been rightly rejected. According to RSO 15-3-D (ii)(C), even the financial status and the income of the political sufferers are to be taken into consideration on assignment of land even it proposed in favour of the political sufferers.

11. Mr.E.Om Prakash, learned Senior counsel for the petitioner submitted that this Court specifically directed the second respondent to consider the petitioner's representation for the allotment of land which allotted to the father of the petitioner, who was a freedom fighter and in which he was put in possession. The father of the petitioner was making repeated request even from the year 1990 and in fact, he was allotted the subject land. He was granted pension on 13.09.1974. Unfortunately, he died and as such the petitioner who is being the only legal heir sought for assignment of patta. Therefore, the second respondent without considering the direction issued by this Court mechanically passed order and thereby rejected the claim of the petitioner.

12. While passing the order, this Court also recorded about the counter filed by the respondents wherein he had taken a stand that the requests made by the petitioner dated 26.06.2010 and 14.01.2011 would be considered and appropriate order would be passed after conducting personal inquiry. Whereas in impugned order, the second respondent had taken a stand that the Revenue Standing Order did not permit for the same. When the



request of the petitioner's father was considered positively, the Revenue Standing Orders would not stand in the way since the assignment could be on free of cost in respect of freedom fighter's category.

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13. In fact, similarly several placed persons have already been assigned patta and when the petitioner's father's request was under consideration he died and as such the petitioner proceeded further on the claim made by her father. Therefore, the specification of the condition as laid down in RSO 15-3(ii) does not arise and denying assignment patta to the petitioner is untenable in law and on facts. When the petitioner sought for information under the Right to Information Act about the recommendations issued by the Revenue Officials in favour of the petitioner's father, she was given a reply that all files in respect of the proceedings were destroyed. The subject land was originally allotted in favour of the father of the petitioner and he was put in possession of that land. Therefore the Revenue Officials considered the request of the petitioner's father and recommended for assignment of the subject land in his favour.

14. After the demise of her father, the petitioner has been in possession and enjoyment of the land by cultivating the same. The petitioner claimed right based on the assignment made in favour of her father as he was a freedom fighter, poor and a landless person and the status of the petitioner referring to the property of her husband which has been admittedly mortgaged and does not have any bearing for the assignment of subject land.

15. Heard Mr.E.Om Prakash, Senior Counsel Assisted by Mr.P.Elaiyarakumar for M/s.Ramalingam & Associates, learned counsel for the petitioner and Mr.Richardson Wilson, learned Government Advocate for the respondents.

16. The land comprised in Survey Nos.579/1, 579/2, 579/3 situated at Nemalur Village, Gummidipoondi Taluk, Thiruvallur District admeasuring 1.28.0 Hectares equivalent to 3.16 acres has been classified as "Assessed Tharisu" was in the possession of the petitioner's father. While her father was alive, he was making requests for assignment of the said land and there were recommendations from the Revenue Officials and in fact, the Tahsildar had fixed value for the said property for assignment. After death of her father, she made representation and filed a writ petition seeking direction to consider the said representation and pass orders. This Court by an order dated 30.03.2012 passed order in W.P.No.28848 of 2011 as follows:



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"2. Counter has been filed wherein positive stand is taken that the request of the petitioner dated 24.06.2010 and 14.01.2011 will be considered and appropriate orders will be passed after conducting personal enquiry by the District Collector, Thiruvallur and by examining the request of the petitioner on merit. It is also submitted that the final order will be passed within three months.

3. In view of the positive stand taken in the counter, this writ petition is disposed of by directing the respondents to take final direction on the representation filed by the petitioner within three months.

4. It is also directed that while considering the representation of the petitioner, the respondents should consider that the land was initially allotted / was in possession of the father of the petitioner who was freedom fighter and had requested for allotment of land as freedom fighter."

17. In pursuance of the directions of this Court, the second respondent had conducted an inquiry and after giving opportunity to the petitioner and considering the documents, passed an order. During the inquiry the 6th respondent submitted a report that petitioner's husband retired as Deputy Superintendent of Police and was drawing a pension at Rs.18,000/- per month. He had constructed a house admeasuring 3600 sq.ft. to the value of Rs.75,00,000/-. It is seen that by communication dated 14.05.2010, though the 4th respondent recommended for assignment of land by fixing the cost at Rs.7526/- per cent again there was another recommendation made whereby the value was reduced to Rs.6000/- by communication dated 14.05.2010. On such recommendations, the first respondent raised queries with regard to the petitioner's consent to pay the land cost.

18. In the meanwhile, the petitioner filed writ petition and in which this Court issued direction to consider her representation. On perusal of Revenue Standing Order Section 15-3(ii), political sufferers and ex-servicemen as such shall not be eligible for assignment of land free of cost except as proved for below: Such of them as are landless and poor shall however to eligible for assignment just as any other landless and poor persons. Further Section 15-ii(a) as per serving personnel or ex-servicemen are eligible for assignment of Government waste land only for bonafide rehabilitation purpose and that assignments to the serving personnel and ex-servicemen



cannot be claimed as matter of right. Further Section 15-ii(b) assessed political sufferers, who are landless and poor shall be eligible for assignment just as any other landless and poor persons. They are not eligible for assignment free of land value, except as provided for below. Section 15-ii(c) categories of eligible poor persons namely being members of Schedule Castes / Schedule Tribes and ex-servicemen and their dependents, etc., should not be considered, when one has become a Government Servant. The financial status and the income are to be taken into consideration on assignment.

19. Therefore, the petitioner failed to fulfil any of the conditions as laid down in the Revenue Standing Order. The counter revealed that the subject land is situated in a close proximity of the city of Madras. The extent of the subject land is 3.16 acres. Such a huge property cannot be assigned on free of cost. That apart, the father of the petitioner was considered to be an encroacher and he was directed to pay encroachment tax. All along he was considered to be an encroacher only and he had been paying encroachment tax and as such the subject land was never assigned in his favour and he was never put in possession by the Government. There are no provisions in the Revenue Standing Order for grant of assignment of land free of cost to the legal heirs of the political sufferers.

20. According to the Section 15-3-D(ii)(C), even the financial status and the income of the political sufferers are to be taken into consideration on assignment of land even it proposed in favour of the political sufferers. Therefore, the second respondent has rightly rejected the representation of the petitioner herein and this Court finds no infirmity or illegality in the orders passed by the second respondent.

21. Accordingly, this writ petition is dismissed. No order as to costs. Consequently, the connected miscellaneous petition is dismissed.

Sd/-

Assistant Registrar(CS IX)

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Sub Assistant Registrar



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To

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- 1.The Secretary,
Government of Tamil Nadu,
Department of Revenue,
Fort St. George, Chennai 600 009.
- 2.The District Collector,
Thiruvallur District,
Thiruvallur.
- 3.The Commissioner,
Land Administration,
Chepauk, Chennai 600 005.
- 4.The District Revenue Officer,
Thiruvallur District.
- 5.The Revenue Divisional Officer,
Ponneri Revenue Division,
Ponneri.
- 6.The Tahsildar,
Gummidipoondi Taluk,
Gummidipoondi.

+2cc to M/s.Ramalingam & Associates Sr.49713

W.P.No.30633 of 2012
and M.P.No.1 of 2012

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