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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.2040 of 2016

and

W.M.P.Nos.1787 and 1788 of 2016

A.Elumalai

... Petitioner

Vs.

1. The Additional Chief Secretary and
Commissioner of Land Administration,
Ezhilagam,
Chepauk,
Chennai - 600 005.

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

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

4. The Tahsildar,
Taluk Office,
Tiruvannamalai,
Tiruvannamalai District.

5. M.Murugan.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records of the first respondents in proceedings bearing No.G2/30531/2013 dated 08.12.2015 and quash the same and consequently direct the third and fourth respondents not to issue any fresh assignment patta to any third person/persons in respect of an agricultural land situate in Survey No.75/3 of Agaram Seepanthi Village, Tiruvannamalai Taluk and District measuring an extent of 1-3.00 Hectares.

For Petitioner : Mr.S.Udayakumar

For Respondents : Mr.Richardson Wilson
Government Advocate
(for R-1 to R-4)



O R D E R

This petition has been filed seeking to quash the proceedings bearing No.G2/30531/2013 dated 08.12.2015 and consequently direct the third and fourth respondents not to issue any fresh assignment patta to any third person/persons in respect of an agricultural land situate in Survey No.75/3 of Agaram Sippanthi Village, Tiruvannamalai Taluk and District measuring an extent of 1-3.00 Hectares.

2. The case of the petitioner is that he was assigned an agricultural land comprised in S.No.75/3, an extent of 1.03.0 Hectares at Agaram Sippanthi Village, Tiruvannamalai Taluk and District dated 25.03.1997 bearing file No.DK45/1406. It was classified as Depressed Class lands and prohibited to sell to non-scheduled caste people. During the year 2008, the fifth respondent herein who also belongs to Depressed Community, had compelled the petitioner to transfer the said land in his favour. Since the petitioner refused to do so, he disturbed the possession and enjoyment. In fact, he also lodged a complaint before the jurisdictional police station and the FIR was registered as against the fifth respondent in Crime No.219 of 2009. Therefore, the fifth respondent lodged a complaint before the Revenue Divisional Officer viz., the third respondent and by an order dated 18.12.2008, the third respondent cancelled the assignment of patta issued in favour of the petitioner. Aggrieved by the same, the petitioner filed an appeal before the second respondent and the second respondent had set aside the order passed by the third respondent dated 18.12.2008 and remanded back the matter to the third respondent to examine as to whether the land was sold to non Depressed Community person and to examine the stand of the petitioner and to pass fresh and reasoned orders. After remand, the third respondent has examined the case of the petitioner and recorded statement from others. Again, the third respondent cancelled the patta issued in favour of the petitioner. Thereafter, the petitioner filed an appeal before the second respondent and the second respondent also confirmed the order passed by the third respondent. Therefore, the petitioner filed a revision petition before the first respondent and the same was also dismissed by the impugned order dated 08.12.2015, confirming the order passed by the second respondent.

3. The learned counsel for the petitioner submitted that, except statement recorded from the private persons, no documents were produced to show that there was transferred by the petitioner to the third person and there was no entry in the Encumbrance Certificate with regard to transfer of property. Further, the counter parties failed to prove that the non depressed community persons, he is in possession and enjoyment



of the subject property. Admittedly, the petitioner, after some period of time, went out for his avocation. Since the assigned land is a dry land, it is not cultivable of all times. The petitioner being an agricultural coolie, went out of the place and utilizing the said circumstances, the fifth respondent being the Village Panchayat President, at that time, lodged a false complaint as if it was handed over to non depressed community people. In fact, the petitioner had produced copy of the Adangal extract for the Faslis 1407, 1410 and 1414 (Calender years 1998, 2001, 2005) before the authority concerned. However, the first respondent rejected the revision for the reason that the petitioner failed to produce Adangal extract for the remaining years. Therefore, admittedly there is no transfer of property and there is no documents were produced by the counter parties to prove the same. The petitioner is the landless poor and he is agricultural coolie and except the land, no other land in possession and enjoyment.

4. Per contra, the learned Government Advocate appearing for the first to fourth respondents submitted that the second respondent filed counter and stated that the subject land was assigned to the petitioner. Thereafter, the petitioner violated the conditions imposed on the assignment and it was cancelled made in favour of the petitioner and due changes were made in the Village Accounts. Soon after the cancellation of the assignment, the petitioner lodged a complaint as against the fifth respondent and it is only an afterthought and assigned lands were not brought under cultivation by the petitioner. During the enquiry before the third respondent, the petitioner categorically admitted that he did not cultivate the subject land from the date of assignment as he has gone for livelihood to other places. He further submitted that one Arunachalam and two others had cultivated the assigned land who are non depressed community people. After remanding the matter before the third respondent, the third respondent conducted detailed enquiry and passed order on 26.05.2008. During the enquiry, the said Arunachalam has admitted that he was enjoying the subject property continuously. It is also corroborated by the evidence of the petitioner that he has never cultivated the said property assigned to him. In fact, the third respondent also conducted field inspection and ascertained that no cultivation activity was carried on in the subject property. It was under enjoyment of non scheduled caste people. Therefore, the respondents 1 to 3 passed orders as per the Revenue Standing Order and the Writ Petition deserves to be dismissed.

5. Heard the learned counsel for the petitioner as well as the learned Government Advocate appearing for the first to fourth respondents.



6. The subject property, admeasuring 1.03.0 Hectares is Government Poramboke classified as "Panchami" comprised in S.No.75/3 at Agaram Sippanthi Village, Tiruvannamalai Taluk and District, was assigned to the petitioner. It was cancelled by the third respondent for the reason that the condition of assignment was violated by the petitioner. On appeal before the second respondent, it was remanded back to the third respondent, thereby the third respondent was directed to conduct fresh enquiry and pass orders. Thereafter, the third respondent conducted the enquiry after giving notice to the parties concerned and again confirmed the order of cancelling the assignment granted in favour of the petitioner.

7. On a perusal of the records, it reveals that during the enquiry, the petitioner deposed that he did not cultivate the subject land right from the date of assignment and that he had gone for his livelihood out of Tiruvannamalai. The said Arunachalam and two others had cultivated the assigned land, who admittedly belonged to non depressed community. It is clear violation of assignment condition. That apart, the petitioner never cultivated the subject property. Initially, the fifth respondent was enjoying the subject property and in fact, the petitioner had no objection for the assignment of the subject property in favour of the fifth respondent. Therefore, the petitioner made contradictory statement before the third respondent. He has also submitted a letter dated 31.05.2010 to the Revenue Divisional Officer concerned, wherein, he has admitted that he had never cultivated the land assigned to him, as he has gone out of station for his livelihood. Though the petitioner produced the Adangal extract for the Faslis 1407, 1410 and 1414 (Calender years 1998, 2001, 2005), admittedly, he never cultivated the subject property at any point of time. That apart, the said Arunachalam was also enquired by the third respondent and he deposed that he is enjoying the subject property continuously. Therefore, the respondents 1 to 3 followed the procedures laid down under the Revenue Standing Order and rightly cancelled the assignment issued in favour of the petitioner. As such, this Court finds no infirmity or illegality in the order passed by the first respondent herein. Hence, this Writ Petition is liable to be dismissed as devoid of merits.

8. In the result, this Writ Petition is dismissed. However, the petitioner is at liberty to submit a fresh representation before the fourth respondent for assignment of the subject property within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the fourth respondent is directed to consider the same and pass orders on merits and in accordance with law within a period of twelve weeks thereafter. It is made clear that till the disposal of the



said representation if any, the fourth respondent is restrained from assign the subject property in favour of others. Consequently, the connected Miscellaneous Petitions are closed. No costs.

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Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional Chief Secretary and
Commissioner of Land Administration,
Ezhilagam,
Chepauk,
Chennai - 600 005.
2. The District Revenue Officer,
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Tiruvannamalai District.
3. The Revenue Divisional Officer,
Tiruvannamalai,
Tiruvannamalai District.
4. The Tahsildar,
Taluk Office,
Tiruvannamalai,
Tiruvannamalai District.

+1CC to Mr.S.Udayakumar, Advocate, Sr.No.41174
+1CC to Government Pleader, Sr.No.41351

W.P.No.2040 of 2016

PMK (CO)
K.RK. (22.09.2021)