



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2021

CORAM

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

W.P.No.9667 of 2012

P.Kamala

... Petitioner

Vs

1.The Principal Secretary and Commissioner
of Land Administration, Chepauk,
Chennai - 600 005.

2.The District Collector,
Kanchipuram District,
Kanchipuram.

3.The District Revenue Officer,
Kancheepuram District,
Kanchipuram.

4.The Tahsildar,
Kanchipuram Taluk,
Kanchipuram.

... Respondents

PRAYER:- Writ Petition is filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent pertaining to the order dated 07.10.2011 passed in No.F2/11634/07 confirming the order of the third respondent dated 15.03.2007 passed in Na.Ka.42879/2005 - Aa.2 which confirmed the order of the 4th respondent dated 31.01.2005 made Mu.Mu.10652/98 Aa.2 and quash the same and direct the authorities to grant assignment in favour of the petitioner in respect of the lands in Survey Nos.2/1 and 3/2 measuring at 3.36 acres of Punja lands in Kottaikaval Village, Kanchipuram Taluk and District.

For Petitioner : Mr.M.S.Subramanian

For Respondents: Mr.U.Baranidharan,
Government Advocate



O R D E R

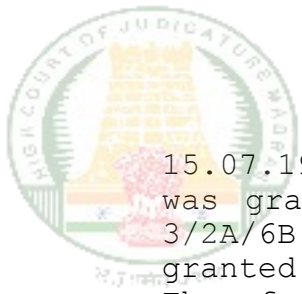
This writ petition is filed to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent pertaining to the order dated 07.10.2011 passed in No.F2/11634/07 confirming the order of the third respondent dated 15.03.2007 passed in Na.Ka.42879/2005 - Aa.2 which confirmed the order of the 4th respondent dated 31.01.2005 made Mu.Mu.10652/98 Aa.2 and quash the same and direct the authorities to grant assignment in favour of the petitioner in respect of the lands in Survey Nos.2/1 and 3/2 measuring at 3.36 acres of Punja lands in Kottaikaval Village, Kanchipuram Taluk and District.

2. The case of the petitioner is that the petitioner's husband namely Parasurama Naicker was in possession and enjoyment of the lands in Survey Nos.2/1 and 3/2 admeasuring 3.36 Acres classified as Anadeenam situated at Village No.57, Kottaikaval, Kanchipuram Taluk. The petitioner's husband repeatedly requested the respondents for assignment of the said land in his favour even from the year 1974. However, his request was not considered and all the adangal extracts stands in the name of the petitioner's husband.

3. After his demise, the petitioner made representation on 21.06.2004 requesting to assign the said land. On receipt of the same, the fourth respondent by an order dated 31.01.2005 rejected the request for the reason that it is valuable land classified as poramboke and cannot be assigned in favour of the petitioner. Aggrieved by the same, the petitioner filed an appeal before the third respondent and the third respondent by an order dated 15.03.2007 rejected the appeal. Aggrieved by the same, the petitioner filed revision before first respondent and by the order impugned in this writ petition dated 07.10.2011, the first respondent rejected the request made by the petitioner.

4. The learned counsel for the petitioner submitted that the first respondent ought not to have dismissed the revision on the ground that the petitioner's request cannot be considered after 15.07.1997, since there is a Government Letter thereby banned that the land should not be assigned and the land situated very nearer to Kancheepuram Municipality which is within 400 meters cannot be assigned. Further the said land situated near Chennai City belt area cannot be assigned. Originally the petitioner's husband made repeated representation even from the year 1974 and as such the petitioner's request can be considered as that of the year 1974.

5. He further submitted that one Babyammal was assigned during the year 1991 and even after the Government Letter dated



15.07.1997 the two other persons namely one Kalpana, D/o.Mani was granted patta in respect of Survey No.3/2A/4B, 3/2A/5B and 3/2A/6B and another person namely Jayakumar, S/o.Mani was granted patta in respect of Survey Nos.3/2A2 and 3/2A3. Therefore, the petitioner's request also considered and granted assignment of the respective land.

6. Per contra, the learned counsel for the respondents submitted that the land in possession is situated nearer to Kancheepuram Municipality which is within 400 meters. As per Revenue Standing Order 15(2)(5) the agricultural lands near Chennai city belt area, other towns are likely to be converted into house sites and as such assignment of lands for agricultural purposes around the towns should be avoided. Therefore, the first respondent rightly rejected the request made by the petitioner.

7. A perusal of the records, reveal that the petitioner's husband was in possession and enjoyment of the land and however, his request made in the year 1974 was not considered. After his demise, the petitioner made a representation for assignment of land and the same was rejected and confirmed by the first respondent in the revision. Though the other person namely one Babyammal was assigned the same part of the land in the year 1991 the petitioner's claim cannot be considered as per G.O.Ms.No.3166, Revenue Department dated 05.11.1966 and thereby the assignment of land has been restricted. The restriction as follows:

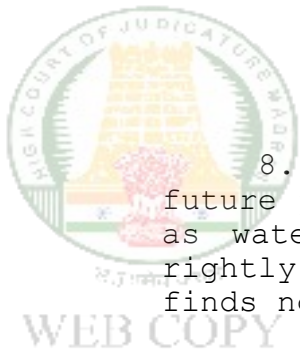
"a. District Headquarters and towns with a population of over two lakhs - 5 miles radius.

b. Other towns with a population exceeding one lakh and upto two lakhs 3 miles radius.

c. Towns with population exceeding 50,000 and not exceeding one lakh - 2 miles radius.

d. Other towns with a population of less than 50,000 1 mile radius.

e. That the area of restriction should be from the municipal limits in all directions so that assignments would be banned on all directions of municipal town evenly instead of from the centre of a town."



8. That apart, the land in possession is required for future public purpose and as such it is not fit for cultivation as water stagnates therein. Therefore, the first respondent rightly rejected the claim of the petitioner and this Court finds no merits in this writ petition and liable to be dismissed.

9. However, the learned counsel for the petitioner would submit that even after the said Government Letter dated 15.07.1997 two persons were assigned the land and issue patta namely one Kalpana and one Jayakumar in respect of the land comprised in Survey Nos.3/2A/4B, 3/2A/5B, 3/2A/6B, 3/2A2 and 3/2A3. Considering the said request, the petitioner is at liberty to make a fresh application by producing documents to show that the other persons were assigned patta before the third respondent herein. On receipt of the same, the third respondent is directed to conduct inquiry and pass orders on merits in accordance with law.

10. Accordingly, this writ petition is dismissed. No order as to costs.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

Rna

To

1.The Principal Secretary and Commissioner
of Land Administration, Chepauk,
Chennai - 600 005.

2.The District Collector,
Kanchipuram District,
Kanchipuram.

3.The District Revenue Officer,
Kancheepuram District, Kanchipuram.

4.The Tahsildar,
Kanchipuram Taluk, Kanchipuram.

+lcc to Mr.M.S.Subramanian, Advocate, S.R.No. 46313

+lcc to the Government Pleader, S.R.No. 46165

W.P.No.9667 of 2012

SJ(CO)

GN(13/10/2021)