



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2021

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.17200 of 2021
and W.M.P.No.18215 of 2021

Kasiammal

...Petitioner

-Vs-

1. The Principal Secretary / Commissioner,
Land and Registration Department,
PWD Estate, Survey House,
Chepauck,
Chennai - 600 005.
2. The District Collector,
Collector Officer,
Thiruvannamalai District,
3. The District Revenue Officer,
District Revenue Office,
Vengikal,
Thiruvannamalai District,
Pincode - 606 604.
4. The Revenue Divisional Officer,
Revenue Divisional Office,
Arani,
Thiruvannamalai District,
Pincode - 632 301.
5. The Thasildhar,
Office of the Thasildhar,
Pollur Taluk,
Pollur,
Pincode - 606 603.
6. The Village Administrative Officer,
Kalpattu Village,
Kattukanallur Via,
Pollur Taluk,
Thiruvannamalai District,
Pincode 632 312.



7. Venda

8. Vijaya

...Respondents/Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents 2 and 4 herein to cancel the illegal assignment order issued in favour of the respondents 7 and 8 and also in any other person and issue assignment patta in favour of the petitioner in respect of Survey No.237, Kalpattu Revenue Village, Irumbuli Village 9B-51, by considering the petitioner's representation dated 07.07.2021 and further representations 14.07.2021 within the stipulated period prescribed by this Hon'ble Court.

For Petitioner : Mr.V.Neethidurai

For R1 to R6 : Mr.Yogesh Kannadasan
Special Government Pleader.

ORDER

This Writ Petition has been filed for the issuance of Writ of Mandamus, directing the respondents 2 and 4 herein to cancel the illegal assignment order issued in favour of the respondents 7 and 8 and also in any other person and issue assignment patta in favour of the petitioner in respect of Survey No.237, Kalpattu Revenue Village, Irumbuli Village 9B-51, by considering the petitioner's representation dated 07.07.2021 and further representation 14.07.2021 within the stipulated period prescribed by this Hon'ble Court.

2. Heard Mr.V.Neethidurai, learned counsel appearing for the petitioner and Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the respondents 1 to 6.

3. The case of the petitioner is that the petitioner and their predecessors are in possession and enjoyment of the property comprised in Survey No.237, Kalpattu Revenue Village, Irumbuli Village 9B-51, Survey No.237, Old Patta No.133 and they are cultivating the lands for the past 50 years. However, they are in possession and enjoyment of the subject land under B-memo. The said land is classified as "Meikkal Poramboke". While being so, the 5th and 6th respondents called the petitioner to handover the possession and enjoyment of the subject land to the 7th and 8th respondents on the ground that they were already assigned the subject land. Therefore, the petitioner submitted representations to the respondents 2 to 4 herein to cancel the assignment which was allegedly assigned in favour of the respondents 7 and 8 and issue patta in their favour.



4. A perusal of the counter filed by the fifth respondent revealed that the subject land was assigned in favour of the respondents 7 and 8 herein, even in the year 2006. Accordingly, the Government of Tamil Nadu issued pattas in favour of the respondents 7 and 8 as Patta Nos.616 and 615 for the land comprised in Survey No.237/7 and 237/6 to an extent of 0.81.0 hectares each, respectively.

5. That apart, the petitioner and another one person Lakshmi, have encroached the subject land and they are continuously occupying the subject land as encroachers. Further revealed that the petitioner is having owned patta land to an extent of 2.088 acres or 0.84.50 hectare patta land comprised in Patta No.336 situated at Kattukkanallur Village, Arani.

6. Except the counter, the fifth respondent failed to state even the date of assignment in favour of the respondents 7 and 8 herein. The fifth respondent also failed to produce any records to show that the subject land was assigned in favour of the respondents 7 and 8 herein.

7. Even assuming that the respondents 7 and 8 were assigned the subject land, even till today no action has been taken to take the possession of the subject land from the petitioner. Further, when the respondents 7 and 8 were assigned in respect of the subject land, they also did not take any steps to possess the subject property. Only in the year 2021, the fifth respondent asked the petitioner to surrender the possession of the subject land for the reason that the subject land was already assigned in favour of the respondents 7 and 8 herein.

8. The learned counsel for the petitioner submitted that as per the Revenue Standing Order 15(23), the assignee shall bring the land under cultivation within a period of three years from the date of assignment. However, admittedly the subject land is in possession and enjoyment of the petitioner and they are cultivating the land.

9. Therefore, the said assignment itself become void and the petitioner is entitled for issuance of Patta. In this regard, the petitioner submitted a representation before the respondents 2 to 4 herein and it is pending.



10. Considering the above, the second respondent is directed to consider the representations of the petitioner, dated 07.07.2021 and 14.07.2021 and after giving an opportunity of hearing to the petitioner and the respondents 7 and 8 herein, pass orders on merits and in accordance with law in the light of the above observation, within a period of twelve weeks from the date of receipt of a copy of this order.

11. With the above directions, this writ petition is disposed of. Consequently, connected Miscellaneous petition is closed. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary / Commissioner,
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PWD Estate, Survey House,
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5. The Thasildhar,
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6. The Village Administrative Officer,
Kalpattu Village,
Kattukanallur Via,
Pollur Taluk,
Thiruvannamalai District,
Pincode 632 312.

+1cc to Mr.Neethidurai, Advocate, S.R.No.62177
+1cc to the Government Pleader, S.R.No.62603

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SR(CO)
KKV/14/12/2021