



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 19.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE **V.PARTHIBAN**

W.P. (MD)No.573 of 2021

and

W.M.P. (MD) Nos.490 and 491 of 2021

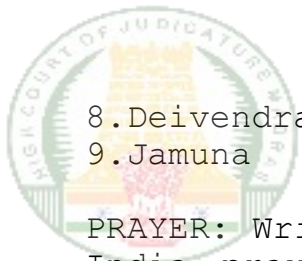
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S.Tirunavukkarasu,
S/o.T.Chidambaram Chettiar,
Devakottai Town,
Rep. by his Power Agent,
Kuppamuthukalai,
S/o.Kandavel,
No.21/1, Vasagam Street,
Chinnamanur, Theni District.

... Petitioner

- Vs -

- 1.The State of Tamil Nadu
Represented by its Secretary,
Revenue Department,
St. George Fort,
Chennai.
- 2.The Commissioner (Land Reforms),
Ezhilagam, Chepauk,
Chennai - 5.
- 3.The District Collector,
Theni District.
- 4.The District Revenue Officer,
Theni District.
- 5.The Revenue Divisional Officer,
Uthamapalayam,
Theni District.
- 6.The Assistant Commissioner,
Land Reforms, K.K.Nagar,
Madurai.
- 7.The Tahsildar,
Uthamapalayam Taluk,
Theni District.



8.Deivendran

9.Jamuna

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceeding of the fifth respondent made in LR/IV No.251/C, dated 31.03.1989 and thereby assigned the land in S.No.3018/1 in Kombai Village in favour of the 8th respondent and quash the same as it is illegal and in consequence to direct the 7th respondent to cancel the Patta No.4614 standing in the name of the 9th respondent and to issue the same in the name of Umayal Achi, as per the partition deed dated 14.07.1969.

For Petitioner

: Mr.R.Suriyanarayanan

For Respondents

: Mr.R.Murugan

1 to 7

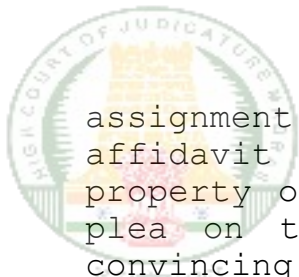
Additional Government Pleader

ORDER

The petitioner is the power of attorney of the owner. According to him, when he attempted to cultivate the land which was thwarted by 8th and 9th respondents, who are husband and wife, claiming right and title over the property as they claimed to have been conferred assignment in 1989. The assignment was given by the fifth respondent in favour of the eighth respondent and eighth respondent in turn gifted the property to the ninth respondent who is his wife.

2.This fact of assignment had been learnt by the petitioner only when the suit was laid by the ninth respondent in O.S.No.45 of 2020 on the file of the District Munsif Court, Uthamapalayam, against the petitioner. On verification, he found that the original assignment itself was not in order. Therefore, the original declaration of land as surplus in 1989 was invalid and the corresponding assignment of the land by the fifth respondent dated 31.03.1989 was also illegal. In the circumstances, the petitioner is before this Court challenging the proceeding of the year 1989 and for consequential relief to cancel the patta stands in the name of 9th respondent and issue the same in the name of Umayal Achi as per the partition deed dated 14.07.1969.

3.This Court is unable to appreciate as to how a stale claim could be revived by a seemingly innocuous direction being prayed for from this court. The petitioner is barred from questioning the action initiated by the officials way back in 1989 at this distance of time. What was the nature of assignment and what was the condition imposed on the assignment cannot be gone into by this Court at this stage. Moreover, this Court does not find any worthwhile explanation forthcoming from the petitioner as to why no action has been initiated at the petitioner's end from the date of



assignment of the land and till date. The averments in the affidavit that he came to know about certain facts relating to the property only when the suit was laid in O.S.No.45 of 2020. Such a plea on the part of the petitioner is unbelievable and is not convincing at all.

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4. In any case, on such self-serving averments, there cannot be a direction to the official respondents to cancel the patta given to the third parties as early as in 1989. Such stale claim could never be a subject matter of any proceeding before this Court. In any case, it is always open to the petitioner to workout his remedy before the Civil Court in the pending suit or he can initiate a separate proceedings and certainly, it is not open to the petitioner to invoke the jurisdiction of this Court and seek interference. In property matters, where the disputes are by and large factual, which cannot be the subject matter of the adjudication before this Court.

5. This Court finds that the Writ Petition is devoid of merits and substance and hence, dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

SRM

To

1. The Secretary,
Revenue Department,
St. George Fort,
Chennai.
2. The Commissioner (Land Reforms),
Ezhilagam, Chepauk,
Chennai - 5.
3. The District Collector,
Theni District.
4. The District Revenue Officer,
Theni District.



5.The Revenue Divisional Officer,
Uthamapalayam, Theni District.

6.The Assistant Commissioner,
Land Reforms, K.K.Nagar,
Madurai.

7.The Tahsildar,
Uthamapalayam Taluk,
Theni District.

W.P(MD)No.573 of 2021

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TP (CO)

NR (09/02/2021) 4P : 8C