



W.P.No.13941 of 2013

M.DHANDAPANI, J.

Today, this matter is listed under the caption “For Being Mentioned” at the instance of the learned counsel for the petitioners.

2. Learned counsel appearing for the petitioners submitted that, though he had filed a substitution petition in WMP.No.5117 of 2021 seeking to substitute the legal heirs of the deceased sole petitioner and the same was also ordered on 16.11.2022, the Legal heirs of the deceased sole petitioner were not substituted in the order dated 16.11.2022 made in W.P.No.13941 of 2013 and the said order was issued in the name of a dead person. Hence, this Court may direct the registry to carry out the necessary corrections in the order copy dated 16.11.2022 and re-issue fresh order copy.

3. A perusal of the files reveal that though this Court allowed the substitution petition in W.M.P.No.5117/2021, however, order relating to the said miscellaneous petition was not typed and placed for signature and inadvertently, the said miscellaneous petition was also closed, which resulted in the non-incorporation of the legal heirs of the petitioner in the cause title by substitution.



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4. In such circumstances, W.M.P.No.5117/2021, which is shown in the cause title shall stand deleted, as the same stands ordered even as on 16.11.2022. Pursuant to the said order, Registry is directed to make appropriate corrections in the cause title by substituting the legal heirs of the petitioner.

5. All the other observations and conditions made in the earlier order dated 16.11.2022 shall remain intact, except for the above said correction.

6. Registry is directed to carry out the necessary correction in the order dated 16.11.2022 and issue a fresh copy of the order to the learned counsel for the parties.

30.03.2023

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W.P.No.13941 of 2013
IN THE HIGH COURT OF JUDICATURE AT MADRAS

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W.P.No.13941 of 2013

DATED : 16.11.2022

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THE HONOURABLE MR. JUSTICE **M.DHANDAPANI**

W.P.No.13941 of 2013
and MP.Nos.1 to 3 of 2013 and
WMP.No.29656/2019 and 5117/2021

M.Marimuthu

.. Petitioner

Vs.

1.The District Collector,
Coimbatore District,
Coimbatore.

2.The District Revenue Officer,
Coimbatore District, Coimbatore.

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

4.The Tahsildar,
Taluk Office,
Mettupalayam Taluk,
Coimbatore District.

5.Secretary,
Coimbatore market Committee,
Department of Agricultural Marketing
and Agri Business,
Coimbatore 45.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India
praying of issuance of Writ of Certiorarified Mandamus to call for the



records of order Na.Ka.13271/96 A1 dated 06.09.1996, of the 3rd respondent on the file of the 3rd Respondent in so far it is against the Petitioner and to quash the same and consequently quash the order of the 1st respondent vide his proceeding in Na.Ka.12483/2012/B3 dated 04.10.2012 passed an order for Enter upon Permission to the 5th Respondent only an extent of 1.86.0 Hectares comprised in S.No.521.

For Petitioner : Mr.R.Rajesh Vivekananthan

For Respondents : Mr.U.Baranidharan for RR1 to 4
Additional Government Pleader
Mr.V.Jayaprakash Narayanan For R5

ORDER

The petitioner has filed this petition for issuance of writ of Certiorarified Mandamus to call for the records of the 3rd respondent dated 06.09.1996 and to quash the same and consequently quash the order of the 1st respondent vide his proceeding dated 04.10.2012.

2. The case of the petitioner is that his father late Muthukaruppan was assigned a patta in respect of the property comprised in S.F.No.521 an extent of 4 acres and 59 cents and in S.F.No.522, an extent of 3 acres and 78 cents at Chikkadasampalayam, Avinasai Taluk, vide proceedings dated 18.07.1924, since he belonged to depressed class and thereafter he is in possession and enjoyment of the property and during his life time, he also applied for patta transfer in favour of the petitioner and paying taxes. It is



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the grievance of the petitioner that all of a sudden the Village Administrative Officer has refused to receive the Tax payment from the petitioner and when it was enquired, it was informed orally that the land was converted as barren land, since the petitioner and his father has violated the conditions. Hence, the petitioner has sent various representations to the respondents, but the petitioner has neither received any reply nor issued with patta. While so, the 2nd respondent on 08.11.2012 attempted to get possession of the property without disposing the petitioner's representation and hence, the petitioner has filed WP.No.31518 of 2012 before this Court. In the meanwhile, on enquiry, it came to know that the 3rd respondent vide his proceeding dated 06.09.1996 had cancelled the assignment and ordered to resume the land on the ground that the assignment holder has breached the conditions of the said assignment and further alleged that one Palanisamy had sold the property to the third party, who allegedly has no title and interest over the property and furthermore based on the said alleged sale, the 1st respondent vide his proceedings dated 04.10.2012, passed an order for Enter upon permission to the 5th respondent only to an extent of 1.86.0 hectares comprised in S.F.No.521. Aggrieved by the cancellation of assignment, the petitioner is before this Court.



3. The learned counsel appearing for the petitioner submitted that though the original assignment was made in the year 1924, it was cancelled only in the year 1996, after a lapse of seven decades, on the ground of breach of conditions. Even a bare perusal of the impugned order did not reveal as to on what ground the respondents have come to the conclusion that the petitioner had breached the assignment conditions and therefore, it is clear that without assigning any reasons, the respondents had cancelled the assignment by merely stating that the conditions had been breached, which is not sustainable and hence prays for allowing of this petition.

4. The learned Additional Government Pleader appearing for the respondents submitted that though the reasons not stated in the impugned order, as against the said impugned order, there is an appeal remedy available before the appellate authority. However the petitioner without exhausting the said remedy, straight away filing this writ petition before this Court, which is not maintainable and hence prays for dismissal of this petition.

5. The learned counsel appearing for the 5th respondent submitted



that after cancellation of the assignment, the District Collector has issued

Enter upon permission in favour of the 5th respondent and thereafter he constructed Market Committee.

6. This Court heard the submission of the respective learned counsels appearing on either sides and also perused the materials available on record.

7. Facts in the present case is not in dispute. Admittedly the land was assigned in favour of the petitioner's father to an extent of an extent of 4 acres and 59 cents in S.F.No.521 and an extent of 3 acres and 78 cents in S.F.No.522 and after the death of the petitioner's father, the petitioner is enjoying the said assignment, which was not disputed by the respondents. However the 3rd respondent had cancelled the assignment dated Nil on the basis of the report filed by the Tahsildar, however the 3rd respondent did not reveal the reason for cancelling the assignment, he simply accepted the report filed by the 4th respondent. This Court has perused the impugned order and a perusal of the same reveals that the 3rd respondent without application of mind, has simply cancelled the assignment without assigning any reason, which is not sustainable and further in any event, the assignment



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made in the year 1924 could not be cancelled, since the original assignee has not alienated the property in favour of any other non-depressed class community people, it was enjoyed by his son after the death of his father, who also belong to the same community and hence no conditions have been violated by the petitioner and his father and therefore, the impugned order passed by the 2nd respondent is liable to be quashed.

8. For the reasons aforesaid, this writ petition is allowed and the impugned order in Na.Ka.13271/96 A1 dated 06.09.1996, of the 3rd respondent is quashed. No costs. Consequently connected miscellaneous petitions are closed.

16.11.2022

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To

1.The District Collector,
Coimbatore District,
Coimbatore.

2.The District Revenue Officer,
Coimbatore District, Coimbatore.

3.The Revenue Divisional Officer,

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Coimbatore District,
Coimbatore.

4.The Tahsildar,
Taluk Office,
Mettupalayam Taluk,
Coimbatore District.

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16.11.2022