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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25/112022

C O R A M

THE HONOURABLE MR.JUSTICE **N. SATHISH KUMAR**

Writ Petition No.24586 of 2015
a n d
M.P.No.1 of 2015

1. N. Jayalakshmi @ N.Jayalakshmi Ammal
   (deceased)

2. N. Karunan

3. N. Gopalan

4. N. Chandran

5. N. Devarajan

6. N. Malliga ... Petitioners

(P.2 to P.6 were substituted as Lrs of deceased sole petitioner, vide, order, dated 28/7/2022 made in W.M.P.No.18481 of 2022 in W.P.No.24586 of 2015 by NAVJ)

Vs

1. The District Collector
   Kancheepuram District
   Kancheepuram 631 501.

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2. The District Revenue Officer
   Kancheepuram District
   Kancheepuram 631 501

3. The Revenue Divisional Officer
   Kancheepuram
   Kancheepuram District.

4. The Tahsildar
   Sriperumbudur Taluk
   Sriperumbudur
   Kancheepuram District 620 105.

5. The Village Administrative Officer
   Navalur Village
   Serapanancherry Post
   Sriperumbudur Taluk
   Kancheepuram District. ... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records of the second respondent bearing Se.Mu.Na.Ka.No.8800/2014/A2 dated 5/6/2015 in respect of the punja land admeasuring an extent of 10 acres comprised in S.No.211/3 Navalur Village, Serapanancherry Circle, Sriperumbudur Taluk, Kancheepuram District and quash the same and direct the second respondent to conduct the enquiry in a fair and equitable manner in accordance with law.

For Petitioner ... Mr.L.Dhamodaran

For respondents ... Mr.J.Ravindran
Additional Advocate General
Assisted by
Mr.U.Baranidharan
Additional Government Pleader
and
Ms.T.Reena Thomas

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O R D E R

This writ petition has been filed to quash the order dated 5/6/2015 passed by the second respondent in Se.Mu.Na.Ka.No.8800/2014/A2 in respect of the punja land admeasuring an extent of 10 acres comprised in S.No.211/3 Navalur Village, Serapanancherry Circle, Sriperumbudur Taluk, Kancheepuram District and direct the second respondent to conduct the enquiry in a fair and equitable manner in accordance with law.

2. The case of the petitioner is that writ petitioner's father was a freedom fighter and was assigned 10 acres of agricultural punja land comprised in S.No.211/3, Navalur village, Serapanancherry Circle, Sriperumbudur Taluk, Kancheepuram District, vide Assignment Order, dated 31/12/1950. During his life time, land was in his possession. After his death, i.e., on 5/4/1986, the petitioner being the wife is in possession of the property.

3. When the matter stood thus, Notice, dated 12/12/2014 was issued by the second respondent for an enquiry, on 22/12/2014 on the allegation that the land was transferred from Grazing Ground Poramboke to punja and

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sub-division was made and patta was wrongly registered in the name of the deceased during Updating Registry Scheme (UDR). The petitioner authorised her son to participate in the enquiry to be held on 22/12/2014 and the petitioner's son has produced all the relevant documents, on 22/12/2014 and appeared before the authorities on 23/12/2014. However, impugned order came to be passed as if no document has been produced and petitioner has not appeared. Hence the impugned order came to be passed.

4. In the counter, it is the stand of the respondents that the alleged assignment order itself is doubtful and despite several opportunity given to the petitioner to produce the document, the petitioner has neither appeared in person nor produced the document before the authority. Therefore, impugned order came to be passed.

5. Heard Mr.L.Dhamodaran, learned counsel for the petitioner and Mr.J.Ravindran, learned Additional Advocate General for the respondents.

6. Learned counsel appearing for the petitioner submitted that originally assignment was made in the year 1948 and thereafter, on 9/5/1949. The same was cancelled and thereafter, by Proceeding, dated

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31/12/1950 in D.No.2592 of 1990 property was reassigned. Now, the respondents have taken a stand as if no document has been produced during enquiry.

7. Learned counsel appearing for the petitioner brought to the notice of this Court that acknowledgment received by the second respondent office for receipt of the document with enclosures, whereas the impugned order proceeded as if no document has been produced and the petitioner's son has also not appeared. Hence, it is his submission that only in the counter stage, the respondents have developed their case with different allegations. Hence, seeks for quashment.

8. The learned Additional Advocate General submitted that proceedings relied upon by the petitioner is doubtful and the petitioner has not appeared for enquiry and no documents have been produced. Therefore, orders came to be passed.

9. The petitioner has produced some documents, viz., proceedings relating to the assignment of the land of the year 1950 and other documents before the Court which relate to the original assignment in the year 1949. In

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Dis.No.2592 of 50 dated 31/12/1950, Collector (incharge), by name Rajagopala Mudaliar appears to have issued the proceedings in favour of the petitioner's husband in respect of the land in Navalur Village and other documents, like patta pass book and tax receipts were also placed before this Court.

10. Be that as it may. Since the very impugned order is proceeded as if the petitioner has not appeared and no document has been produced, this Court is of the view that as the petitioner has produced the document from the year 1950 and also tax receipts and patta passbook also stand in the name of the petitioner, before this Court, without going into the merits of above documents, is of the view that matter needs to be remitted back. The very acknowledgment assigned by the second respondent office which is annexed in Page No.65 of the typed set indicate that petitioner had produced the documents before the second respondent. However, the same have not been reflected in the impugned order. Such order has been passed without proper opportunity being granted to the petitioner and since, none of the documents of the petitioner were relied upon by the second respondent, this Court is of the view that petitioner has made out a prima facie case to establish her right.

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11. In such a view of the matter, this writ petition is allowed and the impugned order, dated 5/6/2015, issued by the second respondent, in Se.Mu.Na.Ka.No.8800 /2014/A2 which is proceeded, as if no documents filed by the petitioner, to substantiate her case, stands quashed. The respondent shall issue fresh notice to the petitioner for enquiry. On receipt of such notice, petitioner is directed to produce all the relevant documents which were placed before this Court before the second respondent. On such production, the second respondent shall give an opportunity of hearing to the petitioner or her children to place their stand. After considering the entire documents and revenue records right from the year 1950, the second respondent shall pass orders on merits and in accordance with law, within a period of six months, from the date of receipt of a copy of this order.

No costs. Consequently, the connected Miscellaneous Petition is closed.

25/11/2022

Index : Yes / No
Internet: Yes
Speaking/non speaking order

mvs.

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N. SATHISH KUMAR, J

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