



W.P.No.6565 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.6565 of 2020
and
W.M.P.No.7786 of 2020

1.Govindammal
2.M.Thimmaraj

... Petitioners

Vs.

1.The State of Tamil Nadu
Rep. by Secretary to Government,
Revenue Department,
Fort St. George, Chennai – 9.

2.The District Collector,
Office of the District Collector,
Krishnagiri District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent made in Ne.Mu.8766/2011/H2 dated 31.01.2020 and quash the same and consequently direct the respondents to issue patta for the land in an extent of 3 acres of land situated in S.No.2/1, Agasipalli Village, Krishnagiri District.

For Petitioners : Mr.G.V.Sridharan
For Respondents : Mr.P.Sathish
Additional Government Pleader



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ORDER

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This Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the 2nd respondent made in Ne.Mu.8766/2011/H2 dated 31.01.2020 and quash the same and consequently direct the respondents to issue patta for the land in an extent of 3 acres of land situated in S.No.2/1, Agasipalli Village, Krishnagiri District.

2. The case of the petitioners, who are mother and son and they are landless poor belonging to Scheduled Caste Community and the first petitioner's husband, who is the father of the second petitioner, served for the nation and died due to war injuries. The petitioners are in possession and enjoyment of the property comprised in S.No.2/1, ad-measuring an extent of 3 acres of land, situated at Agasipalli Village, Krishnagiri District, and they are doing agricultural activities in the above said survey number. According to them, the State Government brought out a scheme for assignment of agricultural land to the person, who served the nation under the ex-service-men quota. In order to avail such benefit, the first petitioner made a representation before the second respondent seeking issuance of Patta in respect of aforesaid survey number. However, the said representation was not



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considered by the second respondent. Hence, the first petitioner filed a Writ Petition before this Court in W.P.No.16652 of 2010, and this Court, by order dated 07.06.2019 disposed of the said Writ Petition, with a direction to the respondents therein to consider the first petitioner's representations dated 18.01.2010, 15.02.2010 and 22.03.2010 within a period of six months from the date of receipt of a copy of the order and till then the respondents are directed to maintain 'Status Quo' as on that date. Pursuant to the order of this Court, the petitioners appeared before the respondents and produced all the documents such as copies of the various Government Orders, Resolution passed by the Panchayat etc. However, without appreciation of the documents in proper perspective, the second respondent rejected the petitioner's application for assignment of land, vide order dated 31.01.2020. Challenging the same, the petitioners filed the present Writ Petition.

3. The learned counsel for the petitioners submitted that the subject land is classified as "Poramboke land" and adjacent to the Poramboke land, the petitioners' Patta land is situated, wherein the petitioners have constructed a house and raised mango plants, and the petitioners are in continuous possession of the aforesaid property for more than 30 years. Thereby, the second petitioner made a representation dated 29.06.2010 before the second



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respondent, seeking to assign the aforesaid land in favour of the petitioners, and the same was rejected, which is not sustainable one. Further, he contented that, G.O.(P).No.376, Revenue Department, dated 08.03.1988 is not applicable in the present case on hand. Accordingly, he prayed for allowing the Writ Petition.

4. The learned Additional Government Pleader appearing for the respondents submitted that admittedly, the first petitioner initially made application for assignment of land and the same was not considered. Hence, the first petitioner filed a Writ Petition in W.P.No.16652 of 2010 before this Court, and this Court, by order dated 07.06.2019 disposed of the said Writ Petition, with a direction to the respondents therein to consider the petitioner's representation dated 18.01.2010, 15.02.2010 and 22.03.2010 respectively purely on merits and in accordance with law. Pursuant to which, the present impugned order is passed.

4.1 Further, the learned Additional Government Pleader appearing for the second respondent filed a detailed counter stating that the petitioners have constructed a house in Natham land comprised in Survey Nos.98/5B, 98/5D and 98/5C of an extent of 0.0058 hectare, 0.00.16 hectare and 0.00.07



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hectare respectively, vide Patta Nos. 585, 586 and 636 respectively and apart from that the petitioners have also encroached an extent of 2.60 acre of land in S.No.2/1 of Agasipalli Village and the said land has been classified as "Pananthoppu" in the Revenue Records. Further, the said land lies within a distance of 1 Km from the Krishnagiri District. As per the Government order in G.O.(P) No.376, Revenue Department, dated 08.03.1988, and the Letter of the Principal Secretary and Commissioner of Land Administration, Ezhilagam, Chennai in Letter No.F3/27323/2005 dated 22.08.2010, the Government lands located within 16 Kms from the District Headquarters should not be assigned to anybody and must be kept vacant for future Government public purposes. However, in the present case, the subject property lies within 1 Km from the Krishnagiri Municipality and the said land is required for future Government purposes and assigning the land in favour of the petitioners is not sustainable one and the same is barred in the above said Government order and letter. Accordingly, he prayed for dismissal of the Writ Petition.

5. The facts in the present case are not in dispute. Admittedly, the petitioners are in occupation of "Natham land" comprised in aforesaid survey number and apart from that the petitioners have also claimed to be in



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occupation of 2.60 acre of land in S.No.2/1 of Agasipalli Village. However, the petitioners made a claim in respect of aforesaid survey number for issuance of Patta and the same was rejected on the ground that the land is situated within 1 Km from the Krishnagiri Municipality. Therefore, assigning the land in favour of anybody is prohibited under G.O.(P) No.376, Revenue Department, dated 08.03.1988 and subsequent letter of the Principal Secretary and Commissioner of Land Administration, dated 22.08.2010. When the Government orders prohibit in assigning the land in favour of the petitioners, this Court cannot interfere with the order under challenge in this Writ Petition, unless the Government order is challenged in the manner known to law. When the Government order is in existence, this Court cannot issue any affirmative direction for grant of assignment of Patta in favour of the petitioners. Hence, the prayer sought for in this Writ Petition cannot be granted.

6. Accordingly, the Writ Petition is dismissed. No costs.

Consequently, the connected Miscellaneous Petition is closed.

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Index : Yes / No

Speaking order: Yes / No

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To

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Revenue Department,
Fort St. George, Chennai – 9.

2.The District Collector,
Office of the District Collector,
Krishnagiri District.



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M.DHANDAPANI, J.

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