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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.28441 of 2013 and 8259 of 2014
and M.P.Nos.1 and 2 of 2013

W.P.No.28441 of 2013:

Kirbal Singh

Vs.

... Petitioner

1. The Secretary to Government of Tamilnadu,
Revenue Department,
Secretariat, Chennai-9.
2. The District Collector
Chemmandalam,
Cuddalore District,
Cuddalore.
3. The District Revenue Officer,
Cuddalore District, Cuddalore.
4. The Revenue Divisional Officer,
Virudhachalam Taluk,
Cuddalore District.
5. The Thasildar
Virudhachalam Taluk,
Cuddalore District.
6. The Village Administration Officer,
Pallipatti Village,
Virudhachalam Taluk,
Cuddalore District.
7. Chellapaangi
8. Dhanakotti
9. Annachalai
10. Kaliyammal



11. Kalaiselvi

12. Kolanchi

13. Samuthravalli

14. A. Vijaya

15. Mayavan

... Respondents

Prayer : The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari Mandamus Calling for the entire records pertaining to the order in Na.Ka.V.3/13019/2013 dated 22.08.2013 of the 3rd respondent and quash the same consequently direct the 3rd respondent to conduct fresh enquiry and pass appropriate orders by observing the principles of natural justice and in accordance with law by giving reasonable opportunity to the petitioner.

For Petitioners : Mr. R. Selva kumar

For Respondents : Mr. T. Chezhiyan RR1 to 5
Additional Government Pleader
Mr. R. Murugabharathi RR7 to 14
Mr. Franklin R15

W.P.No.8259 of 2014:

1. Kalaiselvi

2. Chellabanki

3. Dhanakotti

4. Anjalai

5. Kaliammal

6. Kalanchi

7. Samuthra Valli

8. A. Vijaya

... Petitioners

Vs.

1. The District Collector
Chemmandalam,
Cuddalore District,
Cuddalore.



2. The District Revenue Officer,
Cuddalore District, Cuddalore.

3. The Revenue Divisional Officer,
Virudhachalam Taluk, Cuddalore District.

4. The Thasildar
Virudhachalam Taluk,
Cuddalore District.

5. Kirbal singh

...Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus calling for the records relating to the order dt 8.2.2014 made in NA. KA. V3/14776/2013 passed by the 2nd respondent herein quash the same and restore the assignment of lands granted to the petitioners by the 4th respondent herein by proceedings dt 21.2.2002 made in NA. KA. A7/1384/2002.

For Petitioners : Mr.S.Senthilnathan

For Respondents : Mr.T.Chezhiyan RR1 to 4
Additional Government Pleader
Mr.R.Selva kumar R5

COMMON ORDER

Since the issue involved in both the matters and the facts are one and the same. Therefore, both the petitions are disposed of by way of common order.

2. W.P.No.28841 of 2013 has been filed seeking to quash the order in Na.Ka.V.3/13019/2013 dated 22.08.2013 of the 3rd respondent and consequently, direct the 3rd respondent to conduct fresh enquiry and pass appropriate orders.

3. W.P.No.8259 of 2014 has been filed seeking to quash the order dt 8.2.2014 made in NA. KA. V3/14776/2013 passed by the 2nd respondent herein quash the same and restore the assignment of lands granted to the petitioners by the 4th respondent herein by proceedings dt 21.2.2002 made in NA. KA. A7/1384/2002.

4. The facts of the case in W.P.No.28441 of 2013 are as follows:

The petitioner's father viz., Late L.Saran Singh



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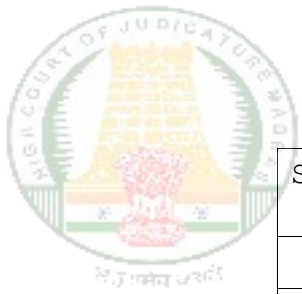
being an Ex-service Man was allotted 5 acres of land in S.No.85/6 Veppankurichi village, Virudhachalam Taluk, Cuddalore District in the year 1968 and DKT patta was granted on 07.08.1968. Thereafter, the said land that was allotted to the petitioner's father, has acquired for Neyveli Lignite Corporation and no compensation was paid for acquisition of the said land.

After giving several representations, the District Collector, allotted 5.66 acres of land in S.No.39/1 of Pallipattu Village, Virudhachallam Taluk to the petitioner's mother. After death of his mother, the patta was transferred in favour of the petitioner. Under these circumstances, the respondents 7 to 15 interfered with the petitioner's possession, for which, the petitioner lodged a complaint before the concerned police station. To grab the petitioner's property, the respondents 7 to 15, had obtained patta on 21.02.2022 by sub-division of the Survey No.39 from the 5th respondent. Against which, the petitioner made a representation to the Chief Minister's cell on 06.01.2012 to cancel the patta wrongly allotted to the respondents 7 to 15. The said representation was forwarded to the special Assistant Collector, Neyveli, who in turn, by his proceedings dated 09.03.2012 recommended the respondents 2,4, and 5 to conduct enquiry and take appropriate action in this regard. The 4th respondent conducted enquiry and vide order dated 19.03.2013 directed the respondents 7 to 15 not to interfere with the petitioner's possession and ordered to cancel the patta. Aggrieved by the said order, the respondents 7 to 15 have filed appeal before the 3rd respondent. During enquiry, the petitioner sought adjournment as his advocate was hospitalized. Without considering the request made by the petitioner, the 3rd respondent cancelled the order passed by the 4th respondent. Challenging the same, the present writ petition has been filed.

5. The facts of the case in W.P.No.8259 of 2014 are as follows:

The petitioners were granted assignment patta on 21.02.2022 by the 4th respondent. The assignment of land for the petitioners are as follows:

S.No.	Name	Survey No.	Extent	Classification of land
1	Kalaiselvi	39/7	0.18.0	Punjai



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S.No.	Name	Survey No.	Extent	Classification of land
2	Chellabanki	39/3	0.18.0	Punjai
3	Dhanakotti	39/4	0.19.0	Punjai
4	Anjalai	39/5	0.16.0	Punjai
5	Kaliammal	39/6	0.18.0	Punjai
6	Kalanchi	39/8	0.18.0	Punjai
7	Samuthra Valli	39/9	0.18.0	Punjai
8	A.Vijaya	39/10	0.18.0	Punjai

Following the assignment the petitioner's were granted patta and their names were entered in the revenue registers and they are in possession of the said lands. Under these circumstances, the 5th respondent, made representation dated 06.01.2012 to cancel the patta already granted in favour of the petitioners. The 3rd respondent conducted enquiry and vide order dated 19.03.2013 directed the petitioners not to interfere with the 5th respondent possession and ordered to cancel the patta in favour of the petitioners. Aggrieved by the said order, the petitioners have filed appeal before the second respondent. The second respondent, vide his order dated 22.08.2013, setting aside the order of the 3rd respondent and directed to restore the name of the petitioners in the revenue records. Thereafter, the 5th respondent herein filed a writ petition before this Court in W.P.no.28441 of 2013 challenging the order passed by the second respondent dated 22.08.2013 and the same is pending before this Court. The District Revenue officer, on the basis of the appeal of one Mayavan dated 22.07.2013 filed prior to the order dated 08.02.2014 by calling it revision and directed the Tahsildar to correct the Village accounts as calling the lands as Government Poromboke waste land. The second respondent has passed the order without giving any opportunity to the petitioners. The DRO has no authority to revise the order of his predecessor. Moreover the appeal of Mayavan was prior to the order dated 22.08.2013. The issues involved in the appeal of Mayavan is totally different. Under these circumstances, the petitioners have no other remedy except to approach this court under Article 226 of the Constitution of India.

6. Heard both sides and perused the materials available on record.

7. The learned counsel for the petitioners in both the writ petitions submitted that the above impugned orders dated



22.08.2013 and 08.02.2014 are passed without hearing the petitioners and no opportunity was given to them. Hence, the learned counsel prays to set aside the impugned orders and remand the matters back to the District Revenue Officer, Cuddalore and direct the DRO to afford opportunity to the petitioners and pass appropriate orders.

8. The learned Additional Government Pleader submitted that two different orders have been passed in respect of S.No.39/1 of Pallipattu Village, Virudhachalam Taluk, Cuddalore District in favour of the petitioner in W.P.No.28441 of 2013 and there was a confusion in the said orders. Therefore, the learned counsel prays to remand the appeals filed by the petitioners in both the writ petitions back to the District Revenue Officer, Cuddalore for fresh consideration.

9. In view of the above discussion, this Court has to necessarily interfere with the impugned proceedings dated 22.08.2013 and 08.02.2014 passed by the DRO, Cuddalore. Considering the facts and circumstances of the case and the fair submission made by the learned Additional Government Pleader, this Court, without expressing any opinion on the merits of the case, sets aside the impugned orders dated 22.08.2013 and 08.02.2014 and remand the matters back to the District Revenue Officer, Cuddalore District. There shall be a direction to the DRO, Cuddalore District to entertain the petitioners' appeal in both the writ petitions and pass appropriate orders, after affording opportunity to necessary parties, on merits and in accordance with law, within a period of six months from the date of receipt of a copy of this order.

10. With the above observations, these writ petitions are allowed. No costs. Consequently connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government of Tamil Nadu,
Revenue Department,
Secretariat, Chennai-9.



2.The District Collector
Chemmandalam,
Cuddalore District,
Cuddalore.

3. The District Revenue Officer,
Cuddalore District,
Cuddalore.

4. The Revenue Divisional Officer,
Virudhachalam Taluk,
Cuddalore District.

5.The Thasildar
Virudhachalam Taluk,
Cuddalore District.

6. The Village Administration Officer,
Pallipatti Village,
Virudhachalam Taluk,
Cuddalore District.

+1cc to Mr.S.Senthilnathan, Advocate SR.No.8295

+1cc to Mr.R.Selvakumar, Advocate SR.No.8573

+1cc to the Government Pleader SR.No.8688, 8689

+1cc to Mr.R.Murugabharathi, Advocate, SR.No.8294 (04/07/2022)

W.P.Nos.28441 of 2013
and 8259 of 2014

GPL (CO)
GN(10/06/2022)