



W.P.No.12570 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.12570 of 2019
and W.M.P.Nos.12825, 24551 & 24552 of 2019

Vijayalakshmi

... Petitioner

Vs

1.The Revenue Divisional Officer/ Sub Collector,
Virudhachalam Revenue Division,
Virudhachalam,
Cuddalore District.

2.The Tahsildar,
Virudhachalam Taluk,
Virudhachalam,
Cuddalore District.

3.Sasikumar

4.B.Bavani

... Respondents

(R4 impleaded as per the order dated 08.11.2022 in

W.M.P.No.24543 of 2019 in W.P.No.12825 of 2019)

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the impugned order passed by the 1st respondent by cancelling the land assignment to the petitioner vide in Mu.Mu.No.(A4) 333/2018 dated 07.02.2019 and quash



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the same.

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For Petitioner : Mr.M.R.Jothimani

For Respondents : Mr.U.Bharanidharan for RR1 & 2
Additional Government Pleader

: Mr.K.V.Dhanapalan for RR3 & 4
for M/s.Fenn Walter Associates

ORDER

This petition has been filed challenging the order passed by the 1st respondent, cancelling the land assignment made to the petitioner vide in Mu.Mu.No.(A4) 333/2018 dated 07.02.2019 and quash the same.

2.The case of the petitioner is that, the petitioner is a poor agriculturalist hailing from a downtrodden family and living below the poverty line. Recognising the poverty of the petitioner, the land in S.No.97/1 measuring an extent of 0.28.5 Acre, situate at Namem Village, Virudhachalam Taluk assigned in favour of the petitioner by the 2nd respondent vide Land Assignment order as “D Namunaa” (Land Assignment) in his proceedings in RTR No.13/1419 dated 29.06.2009. Based on the possession and enjoyment of the said assigned land for more than four decades and that the petitioner being a poor agriculturist, he was



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not in a position to get affordable income from the agricultural field and was facing a lot of financial crisis for his children education, in the above circumstances, the petitioner borrowed a sum of Rs.1,00,000/-(Rupees One Lakh only) and Rs.99,500/- (Rupees Ninety Nine Thousand Five Hundred only) from one namely Bhavani, wife of Balakrishnan and executed a Security Sale Deed dated 11.08.2014 in favour of the said Bhavani. However, the same was noticed by the 3rd respondent, who is the neighbour of the petitioner, made a complaint before the 1st respondent for cancellation of the assignment on the ground that the petitioner violated the assignment condition. Pursuant to which the show cause notice was issued and immediately an enquiry was conducted by the 1st respondent. In the meanwhile, the said Bhavani and her husband Balakrishnan cancelled the Security Sale Deed dated 11.08.2014, on 25.09.2018 in Doc.No.1749 of 2018 on the file of the SRO, Pennadam and restored the title in favour of the petitioner. Even then, the respondent passed the impugned order, cancelling the assignment issued in favour of the petitioner and passed the impugned order dated 07.02.2019. Challenging the same, the present Writ Petition is filed.



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3.Learned counsel appearing for the petitioner would submit that admittedly, the petitioner is a poor agriculturist and he was assigned the land in S.No. S.No.97/1 in terms of Revenue Standing Orders on 29.06.2009. however, due to the above poverty, there was an encumbrance and subsequently, the said encumbrance was removed. Hence, there is no legal impediment and there is no violation of the Assignment condition. In the absence of any violation, cancelling the said assignment made in favour of the petitioner is not a sustainable one. Therefore, the learned counsel for the petitioner prayed that this Court may set aside the impugned order.

4.Learned counsel appearing for the 3rd respondent would submit that 3rd respondent made a complaint before the 1st respondent, since, the petitioner denied the right of pathway to reach the Mayanam. Thereby, the 3rd respondent preferred a complaint before the 1st respondent for cancellation of the assignment made in favour of the petitioner.

5.In reply, the learned counsel appearing for the petitioner would submit that there was an existing pathway. However, the 3rd respondent without using the existing pathway, adamantly claim the rights of the pathway in the petitioner's assignment land and the same was objected. Due



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to vengeance, the 3rd respondent made a complaint before the 1st respondent and based on which the present impugned order is passed. Accordingly, he prayed for appropriate orders.

6.Per contra, learned Additional Government Pleader appearing for the respondent would submit that at the time of issuing show cause notice there was an encumbrance in the said assigned land and based on the said violation, a show cause notice was issued. However, the said encumbrance was removed subsequently with the help of the said Bhavani and earlier Security Sale Deed was cancelled in order to avoid the cancellation proceedings.

7.Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondent 1 to 2 and perused the material available on record.

8.The fact in the present case is not in dispute. Admittedly the petitioner was assigned a land on 29.06.2019 under the Revenue Standing Order. However, there was a private dispute between the petitioner and the 3rd respondent for denying the usage of the pathway right to the 3rd respondent. Thereby, the 3rd respondent made an application for cancellation



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of the assignment made to the petitioner. It is also an admitted fact that the petitioner borrowed money from one Bhavani and executed a Security Sale Deed, whereas, the same was cancelled on 25.09.2018 in Doc.No.1749 of 2018. Though the cancellation deed was presented before the 1st respondent, the 1st respondent proceeded to cancel the said assignment and passed the present impugned order on 07.02.2019. At the time of passing the impugned order, there is no encumbrance. Hence, there is no legal impediment. The reason assigned by the 1st respondent in cancelling the said assignment as violation of the assignment condition is not sustainable one and hence, the order passed by the 1st respondent, cancelling the land assignment made to the petitioner vide in Mu.Mu.No.(A4) 333/2018 dated 07.02.2019 is set aside.

9.This Writ Petition is accordingly, allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Speaking Order/ Non Speaking Order
Index: Yes/ No

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Internet: Yes/ No

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- 2.The Tahsildar,
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M.DHANDAPANI,J.

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