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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.28676 of 2010

and

M.P.No.2 of 2010

N.Sivakumar

...Petitioner

Vs.

1. The Principal Secretary and
Commissioner of Land Administration,
Chepauk, Chennai - 600 005.

2. District Collector,
Salem District,
Salem - 4.

3. The Tahsildar,
Salem - 1.

4. The Village Administrative Officer,
Alagapuram,
Alagapuram Post, Salem - 4.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari Mandamus calling for the records relating to proceedings of the 1st respondent passed in No.F2/4623/09 dated 25.10.2010 and quash the same and direct the 3rd respondent to issue the assignment patta in favour of the petitioner in respect of cultivating lands, to an extent of 2 acres bearing Survey No.3, situated at Alagapuram Village, Salem District.

For Petitioner : M/s.M.Thamizhavel

For Respondents : Mr.T.Chezhiyan
Additional Government Pleader

ORDER

The prayer sought for herein is to quash proceedings of the 1st respondent dated 25.10.2010 and to direct the 3rd respondent to issue the assignment patta in favour of the petitioner in respect of cultivating lands admeasuring 2 acres situate in Survey No.3 at Alagapuram Village, Salem District.

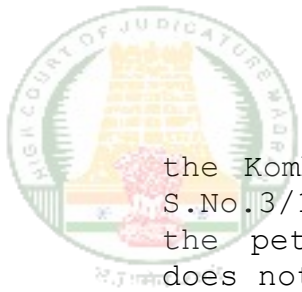


2. The case of the petitioner is that the petitioner is in possession and enjoyment of the aforementioned property from the year 1982 onwards. The petitioner cultivates the land continuously and paying the kist to Government regularly. On 06.07.1994, the Commissioner of Panchayat Union, Salem District has sent proceedings to the 3rd respondent giving recommendation to the 2nd respondent that the land in question can be assigned in favour of the petitioner as per the resolution passed by the Panchayat Union. The petitioner has applied for patta for agricultural Porambokke land in his favour. However, the 1st and 2nd respondents have not taken any action on the petitioner's representation. Therefore, the petitioner filed a writ petition before this Court in W.P.No.22206 of 2008 seeking for a direction to the respondents to dispose of the representation dated 02.07.2008.

3. This court by its order dated 10.09.2008 issued a direction to the 2nd respondent to dispose of the petitioner's representation within a period of 12 weeks. The 2nd respondent in his proceedings dated 29.01.2009 states that the land for which assignment is requested by the petitioner is within the radius of 16 Kms of Corporation limit which is within a banned category. Based on the aforesaid proceedings of the 2nd respondent the present impugned order was passed rejecting the petitioner's request. Challenging the same, the present Writ Petition was filed.

4. The learned counsel for the petitioner submits that the petitioner is a landless poor and he does not have any land in Alagapuram Village or any other area and he did not possess any house sites or JCP as stated in the impugned order which was passed based on the ex parte enquiry conducted by the Tahsildar and without providing opportunity to the petitioner, which is not sustainable in law.

5. Mr.T.Chezhiyan, learned Additional Government Pleader for respondents submits that this Court by order dated 10.09.2008 issued a direction to the respondents herein to consider the petitioner's representation dated 02.07.2008 and an enquiry was conducted by the Tahsildar and other Revenue Officials who forwarded the enquiry report to the 1st respondent wherein it has been specifically stated that the petitioner's father owns a patta land to an extent of 1.69 hectares in Reddiyur Village, Salem Taluk and apart from that, the petitioner owns a house and a JCP and he is not a landless poor and further the house sites for the people who were evicted from



the Kombaipatti, Alagapuram Pudur Village were allotted land in S.No.3/1, which is under reclamation. Hence the claim made by the petitioner was rejected and therefore the impugned order does not call for any interference in the present Writ Petition.

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6. Heard the learned counsel appearing for the petitioner and learned Additional Government Pleader appearing for the respondents and perused the materials placed before this Court.

7. It is case of the petitioner in the present case is that he is in occupation of the said land for more than a decade. However, he made an application for assignment of patta under Revenue Standing Orders. The said representation was not considered, hence he approached this Court by filing W.P.No.22206 of 2008 and this Court vide order dated 02.07.2008 issued a direction to the respondents to consider the representation of the petitioner. This Court, on a perusal of the impugned order, finds that the impugned order has been passed based on the enquiry report submitted by the Tahsildar stating that the petitioner's father owns a patta land to an extent of 1.69 hectares and that the petitioner also owns a house and a JCP. Admittedly, as per the policy of the Government, demand of land can only be made by a landless poor who does not have any land. In the present case, the respondents in the impugned order, have made it clear that the petitioner's father owns a land and the petitioner owns a house and a JCP. Though the petitioner claims to have no lands, the report of the Tahsildar is otherwise and this being a disputed position, if at all the petitioner is aggrieved, he has to work out his remedy before the competent forum and the relief sought for in this Writ Petition cannot be considered.

8. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

rap/nhs



To

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3. The Tahsildar,
Salem - 1.

4. The Village Administrative Officer,
Alagapuram,
Alagapuram Post, Salem - 4.

+1 CC to Mr.M. Thamizhavel, Advocate sr 9425

+1 CC to The Government Pleader sr 9541.

W.P.No.28676 of 2010

KK(CO)
SP(11/03/2022)