



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.26866 of 2017

and

W.M.P. Nos. 26810 & 26811 of 2017

P.Srinivasan,
S/o. Palaniyandi

... Petitioner

Vs.

1. The Additional Chief Secretary
and Commissioner of Land Administration,
"Ezhilagam", Chepauk,
Chennai-600 005.
2. The District Collector,
Perambalur District,
at Perambalur.
3. The District Revenue Officer,
Perambalur District,
at Perambalur.
4. The Revenue Divisional Officer,
Perambalur,
Perambalur District.
5. The Tahsildar,
Kunnam Taluk,
Perambalur District.
6. The Village Administrative Officer,
Sithali West, Kunnam Taluk,
Perambalur District.
7. Thiru Sundaram,
S/o. Sengan
8. Thangarasu,
S/o. Kandan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relevant to the order in Na.Ka.C2/13154/2016 dated 18.09.2017 passed by the 3rd respondent and quash the same as illegal, improper,



unreasonable, arbitrary against the rule of law and natural justice and thereby direct the respondents to restore the order of allotment No.926/1403 issued by the 5th respondent in respect of Gramanatham Survey No.287/41, Peelvadi Village, Kunnam Taluk, Perambalur District to an extent of 100 sq. m. land in the name of the petitioner and enable him to continue.

For Petitioner : Mr.A.Rajesh Kanna

For Respondents : Mr. V.Jeevagiridharan,
Addl. Govt. Pleader for R1 to R6

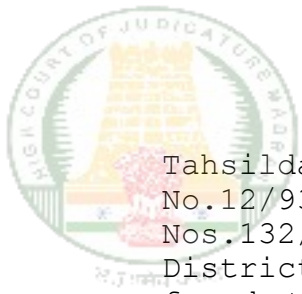
Mr.S.Sathiachandran,
for R7 & R8

O R D E R

This Writ Petition has been filed challenging the order of cancelling the assignment of patta granted in favour of petitioner.

2. The grievance of the petitioner is that, the petitioner was granted patta in respect of 100 sq.m. of land in Survey No.287/41, Peelvadi Village, Kunnam Taluk, Perambalur District and from the date of assignment, the petitioner is in possession and enjoyment of property and put up a hut therein. Based on the complaint given by 7th and 8th respondents, the 3rd respondent, without conducting any enquiry whatsoever, cancelled the order of assignment. Challenging the same, the petitioner has filed an appeal before the 3rd respondent and the 3rd respondent, after considering the materials, has also dismissed the appeal. Now, against that order, the present Writ Petition has been filed.

3. The 2nd respondent filed a counter affidavit stating that, the petitioner was assigned with 100 sq.m. of natham land in the year 1994 with the condition that, the petitioner shall construct a building in the land within a period of one year of assignment of land. But, the petitioner has not put up any construction for more than 17 years and he is residing in his ancestral house with his family members. Hence, an enquiry was conducted by the Tahsildar, Kunnam Taluk and he has also confirmed the same. It is further stated that, originally, there was a proposal to conduct a community hall in the land, which was assigned to the petitioner, and since the petitioner did not utilise the land for the purpose, it was assigned, based on the representation made by general public, assignment has been cancelled. Only thereafter, the petitioner has put up small thatched shed after cancellation of assignment and now, he is in possession and enjoyment of 122 sq.m. of land, over and above the area, which was assigned to him. It is also stated that, even before obtaining assignment, the petitioner has obtained house site patta No.139 from the Special



Tahsildar, Adi-Dravidar Welfare, Perambalur through Award No.12/93-94 in Sithali (West) village, Perambalur in Survey Nos.132/1, 133/3A and 134/5. Subsequently, the 3rd respondent District Revenue Officer has conducted a field inspection and found that, the petitioner only put up a thatched shed and fenced the same with coconut tree leaves and he is not residing in the assigned site. Considering all those circumstances, since the petitioner has violated the assignment condition and he has also obtained another assignment in his favour, the 3rd respondent has rightly cancelled the assignment.

4. Mr. A. Rajesh Kanna, learned counsel appearing for petitioner would submit that, in a land in dispute, the petitioner has put up a construction and residing therein and there is no violation of condition. So far as the earlier assignment referred by the respondents is concerned, it is only a beneficiary list preferred by the 5th respondent Tahsildar, wherein the petitioner wife's name was found place and there is no actual allotment granted and no possession was handed over to the petitioner. Hence, the petitioner is residing for more than 22 years in the assigned land.

5. Mr.V.Jeevagiridharan, learned Addl. Government Pleader appearing for respondents 1 to 6 would submit that, the petitioner earlier obtained an order of assignment in favour of his wife and assignment order was also granted in her favour. Suppressing the same, he has obtained another assignment in the natham land. That apart, he has not complied with the condition and he has not put up any construction within a period of one year and now only before passing cancellation order, he has put up a thatched shed. The field inspection conducted by 5th respondent Tahsildar as well as 3rd respondent District Revenue officer clearly shows that, he has put up a thatched shed. That apart, the petitioner has also encroached some adjacent area and causing nuisance to the public. In the said circumstances, based on the objection raised by the general public and after due enquiry, the assignment order has been cancelled.

6. Heard and considered rival submissions of learned counsel appearing for both sides and perused the records carefully.

7. From the perusal of records, it could be seen that, the assignment of house site in natham land was granted in favour of petitioner with specific condition that, the petitioner should put up a construction within a period of twelve months, however, the petitioner has not put up any construction even after lapse of 17 years from the date of assignment. The field inspection conducted by 5th respondent Tahsildar and 3rd Respondent District Revenue Officer would clearly establish the same. As per the report, the petitioner has only put up a thatched shed and fenced it with coconut



leaves. That apart, the petitioner has already obtained another assignment in favour of his wife and suppressing the same, he has obtained second assignment on the ground that he is a landless poor and on that ground itself, the present assignment is liable to be set aside. However, in respect of earlier assignment, even though petitioner wife's name was found place in the list of beneficiary, no order of allotment was granted. Considering those circumstances, the 4th and 5th respondents are directed to permit the petitioner to occupy the land, which was allotted in favour of his wife as per the earlier order. Accordingly, this Writ Petition stands disposed of. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

rpp

To

1. The Additional Chief Secretary
and Commissioner of Land Administration,
"Ezhilagam", Chepauk, Chennai-600 005.
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Kunnam Taluk, Perambalur District.
6. The Village Administrative Officer,
Sithali West, Kunnam Taluk,
Perambalur Dt.

+1cc to Government Pleader SR. No. 23839

+1cc to Mr.S.Sathiachandran, Advocate SR. No. 23432

+1cc to Mr.B.Gopalakrishnan, Advocate SR. No. 23426

W.P.No.26866 of 2017