



WP.No.26028 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2022

CORAM

THE HONOURABLE Mr. JUSTICE M.DHANDAPANI

WP.No.26028 of 2018
and WMP.No.2728 of 2019 and 20577 of 2022

Dhanalakshmi
Vs
... Petitioner

1. The District Revenue Officer,
Office of the District Collector,
Vellore District, Vellore.

2. The Revenue Divisional Officer,
Tahsildar Office,
Walaja Taluk Office,
Vellore District, Vellore.

3. The Tahsildar,
Walaja Taluk,
Vellore District,
Vellore.

4. Kuppan @ Kuppusamy (died)

5. Lakshmi

6. Babu K
(R5 & R6 IMPEADED AS PER ORDER
DT 14.09.2022 MADE IN
WMP.No.20577 of 2022 IN WP.26028 of 2018) ... Respondents



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Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records in the impugned order No.Na.Ka.B4 / 21453 / 2015, dated 29.6.2018 of the 1st respondent and quash the same consequently direct the respondents 1 to 3 to grant in the same in the name of petitioner in respect of subject property to an extent of 0.41.0 hectre in survey No.762/3, Aayilam village, Walaja Taluk, vellore District.

For Petitioner : Mr. G.Krishnakumar

For Respondents 1 to 3 : Mr.C.Jayaprakash
Government Advocate

For Respondent No.4 : Mr.G.Pugazhenth

ORDER

This petition has been filed seeking to quash the impugned order No.Na.Ka.B4 / 21453 / 2015, dated 29.6.2018 of the 1st respondent and consequently, direct the respondents 1 to 3 to grant patta in the same in the name of petitioner in respect of subject property to an extent of 0.41.0 hectre in survey No.762/3, Aayilam village, Walaja Taluk, vellore District.

2. It is the case of the petitioner that the third respondent has



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assigned the subject property to the petitioner on 16.12.2006 and patta was also issued in his favour vide document No.1198. While so, the 4th respondent, who is the resident of the same village, made a petition on 24.03.2016 before the second respondent to cancel the assignment order stands in the name of the petitioner and the same was not considered. Therefore, the 4th respondent filed a writ petition in W.P.No.20060 of 2016 for mandamus for a direction directing to dispose of the representation dated 24.03.2016. This Court, vide its order dated 05.07.2013, disposed of the petition with a direction to the second respondent to conduct detailed enquiry and pass appropriate orders. Pursuant to which, the second respondent, after conducting detailed enquiry, rejected the claim of the 4th respondent, vide his order dated 22.03.2018 on the ground that the assignment was made after due enquiry. Challenging the said order, the 4th respondent preferred a revision before the first respondent on 11.04.2018 challenging the order of the second respondent. The first respondent has issued a notice to the petitioner and sought for explanation. The petitioner appeared before the first respondent and filed a written statement. Without considering the facts, the first respondent, vide his order dated 29.06.2018,



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cancelled the assignment order stands in favour of the petitioner.

Challenging the said order, the petitioner has filed the present writ petition before this Court.

3. Learned counsel for the petitioner submitted that the petitioner is belonging to depressed class community and the land in question (Government Poromboke) is granted to the petitioner as per the Government Scheme on 16.06.2006. Till the year 2018, the respondents have not taken any steps by issuing any show cause to the petitioner to cancel the assignment order on the ground of violation. At the instance of the 4th respondent, the first respondent, without considering the entire fact, cancelled the assignment order on the sole ground that the petitioner's father in law owned a land in the very same village and the petitioner is also entitled to get a share from her father in law. The said decision taken by the first respondent is totally unsustainable. On the earlier occasion, the very same issue came up for consideration before this Court in W.P.No.20908 of 2011 and this Court, vide its order dated 18.01.2012, allowed the writ petition and wherein it is stated that *the other reason by the respondent*



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No.1 for the cancellation of assignment is that the land was owned by the husband of the petitioner. The standing orders of the Board of the Revenue, RSO-15, does not stipulate the clubbing of the land of the husband with that of the wife. Therefore, the order impugned is totally illegal and the same is liable to be quashed. According, the learned counsel prays to allow the writ petition.

4. Per contra, learned counsel appearing for the private respondents submit that the private respondents are in possession and enjoyment of the property. To evict the 4th respondent, the official respondents assigned the subject land in favour of the petitioner. The first respondent, after conducting enquiry, rightly passed the impugned order by cancelling the assignment order in favour of the petitioner stating that the petitioner's father-in-law owned a land in the same village and further, granting assignment of land to the petitioner is contrary to the scheme and the petitioner has suppressed the said fact and hence, the learned counsel prays to dismiss the writ petition.

5. Learned Government Advocate appearing on behalf of the



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respondents 1 to 3 submitted that the 4th respondent has owned a land measuring an extent of 2.39.5 Hectares in Ayilam Village as per patta No.151, but she has not mentioned the ownership of land details in the written statement in the revision petition. Further, the petitioner's father in law has owned about 1.58.0 Hectares of land in Ayilam Village as per patta No.514 and she has right over the undivided land property. The learned counsel further submits that based on the enquiry the land assigned to the petitioner in S.No.762/3 with the extent of 0.41.0 Hectares in Ayilam Village under the Tamil Nadu Governments assignment of land to landless poor -2006 by the third respondent vide order dated 16.12.2006 and the same was cancelled by the first respondent.

6. Heard the learned counsel on either side and perused the materials available on record.

7. The facts of the case are not in dispute. Admittedly, the petitioner was assigned a land by the third respondent on 16.12.2006 under the Scheme. It is the grievance of the private respondents that the officials



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respondents have acquired the subject land for providing land for landless poor agriculturists. But the petitioner father in law owned a land in the very same village and further, she has not disclosed the ownership of the land while allotting the land to the petitioner. The respondents have also not taken any action against the petitioner for the alleged violation committed by her.

8. On perusal of the affidavit, it is seen that during the year 2016, the 4th respondent made a complaint before the 3rd respondent for cancellation of the assignment order and the same was rejected by the third respondent. After lapse of a decade, the 4th respondent has made a complaint. However, the revisional authority allowed the revision petition filed by the 4th respondent on the sole ground that the petitioner's father in law owned a property in the very same village, in which, the petitioner is also entitled to get a share from the said property.

9. From the materials available, it is clear that after conducting enquiry, the petitioner was assigned a land by the Government in the year 2006 and the petitioner is in continuous possession and enjoyment of the



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said subject property. The 4th respondent has made a complaint even after lapse of ten years i.e. On 24.06.2016, which is not sustainable one. The land was assigned to the petitioner under Standing Orders of the Board of Revenue, RSO-15, which defines the "landless" as under:

" Landless person" means a person who owns a total extent of less than 1.21.5 hectare of land, if dry, or a total extent of less than 60.5 acres, if wet.

10. In the present case, the petitioner's father-in-law owned undivided property measuring an extent of 1.58.0 Hectares. The share of the each member of a joint family will be taken into consideration for deciding whether she is a landless poor person or not. Though it may be contended that it is the prerogative right of the Government to consider the grant of assignment of lands to landless poor, the discretion ought to have been exercised in the light of the policy of the Government and with reference to provisions under the Board Standing Orders.

11. In view of the above discussion, the petitioner does not violate



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the condition as mentioned in the impugned order. As per the Revenue Standing Orders, the petitioner is entitled for assignment and therefore, this Court has to necessarily interfere with the impugned order passed by the first respondent.

12. Considering the facts and circumstances, this Court is hereby set-aside the impugned order passed by the first respondent dated 29.06.2018 and the 3rd respondent is directed to mutate the revenue records in respect of the subject property in favour of the petitioner within a period of six weeks from the date of receipt of a copy of this order.

13. With the above observation, the writ petition stands allowed.
No costs. Connected miscellaneous petition is also closed.

14.09.2022

Rli
Index:Yes/No
Internet:Yes/No
Speaking/Non speaking



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M.DHANDAPANI, J.

Rli

To

1. The District Revenue Officer,
Office of the District Collector,
Vellore District, Vellore.
2. The Revenue Divisional Officer,
Tahsildar Office,
Walaja Taluk Office,
Vellore District, Vellore.
3. The Tahsildar,
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