



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P. (MD)No.11074 of 2009

P.Nachimuthu

... Petitioner

versus

1. The District Collector,
Dindigul District,
Dindigul.

2. The Tahsildar,
Vedasandur,
Dindigul District.

3. P.Poovayammal (died)

4. Palanisamy

5. Mariammal ... Respondents
(R4 and R5 are impleaded as legal heirs
of the deceased R3, vide order dt. 25.09.2019
in W.M.P.(MD)No.10748 of 2019)

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned allotment dated 20.09.2007 in No.19602/07/B3 issued by the second respondent in favour of the third respondent and quash the same and consequently, direct the second respondent to allot the said land comprised in S.No.1340 measuring an extent of 72 cents in Vadugambadi Village, Vedasandur Taluk, Dindigul District in favour of the petitioner under the Special Scheme for handing over land to landless poor agricultural family.

For Petitioner : Mr.T.Antony Arul Raj
for Mr.S.Anwar Sameem

For R1 and R2 : Mr.A.Baskaran,
Additional Government Pleader

For R4 and R5 : Mr.P.Vairavasundaram

R3 : died

ORDER

This writ petition is filed as against the order of assessment dated 20.09.2007. By the order impugned in this writ petition, the Tahsildar, Vedasandur, assigned a land comprised in S.No.1340



measuring an extent 0.290 ares in favour of one Poovamal, who is the third respondent herein. Pending the writ petition, the third respondent died and her legal heirs have been impleaded as respondent Nos.4 and 5.

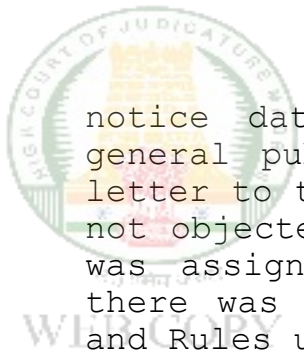
2. The case of the petitioner is that pursuant to the announcement made by the Government under Rule 110, assigning the lands for landless poor persons, G.O.Ms.No.555, Revenue Department, dated 26.08.2006 was passed by mentioning the guidelines for assigning the lands and the lands were assigned in the year 2007 to the landless poor persons. As per the Scheme, the landless poor persons alone are eligible for the assignment.

3. According to the petitioner, the husband of the third respondent was having five acres of land and he died in the year 1996 leaving behind the third respondent and her legal heirs. As on the date of assignment, i.e. on 29.09.2007, the petitioner was having a land in Survey No.1340 measuring an extent of 72 cents, but, the official respondents, without ascertaining the same, has mechanically assigned the land in Survey No.1340 in favour of the third respondent. Challenging the order of assignment, the present writ petition has been filed.

4. The learned counsel for the petitioner submits that the land in Survey No.1340 is in occupation of the petitioner and he is cultivating the land for several decades and 2C patta was also issued by the official respondents in his favour. Without ascertaining the same, the official respondents allotted the said land in favour of the third respondent. Therefore, he prayed for setting aside the order of assignment issued in favour of the third respondent.

5. The learned counsel for the 4th and 5th respondents submits that the lands of the third respondent's husband were allotted to her son, namely, the 4th respondent herein even before the assignment and as on the date of assignment, the third respondent was not having any land in her name. He also relied on the definition of Family from the Act 30/2013 and submits that the family includes widows, divorcees and women deserted by families shall be considered separate families. He further submits that the 3rd respondent was living separately. He also referred to two different family cards, one is issued in the name of the third respondent and another is issued in the name of fourth respondent. Therefore, he prayed for dismissing the writ petition.

6. The learned Additional Government Pleader appearing for the official respondents submits that as per the Scheme announced by the Government in G.O.Ms.No.555, Revenue Department, dated 26.08.2006, the lands were allotted. As on the date of allotment, there was no other application apart from the third respondent. Before passing the order, the official respondents also issued Al



notice dated 01.08.2007, but, there was no objection from the general public. Thereafter, the official respondent also sent a letter to the Panchayat President. The Panchayat President has also not objected for the assignment of land. After that only, the land was assigned to the third respondent on 20.09.2007. Therefore, there was no violation of any procedure as contemplated under Act and Rules under the Scheme.

7. This Court considered the rival submissions made and perused the materials available on record.

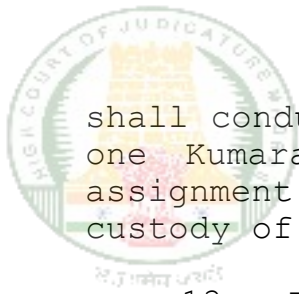
8. The Government has taken a policy decision to provide lands to landless people and announcement was also made in the Assembly under Rule 110. Consequently, a Government Order was also passed in G.O.Ms.No.555, Revenue Department, dated 26.08.2006. As per the Government Order, some of the lands were identified in the petitioner's village and Survey No.1340 was one of the identified lands. At the time of allotment, the third respondent alone made an application and based on that application, the official respondents issued A1 notice dated 01.08.2007, for which, there was no objection from the public. After verifying with the Panchayat President, who has also not objected for the same, the official respondents have assigned the land to the third respondent on 20.09.2007 and the same is under challenge before this Court.

9. The case of the petitioner is that the husband of the third respondent was having a land to an extent of 5 acres and he died in the year 1996 and thereafter, the land would automatically stand vested with his wife and other legal heirs, namely, the 4th respondent and 5th respondent. Therefore, as on date of assignment, i.e. on 20.09.2007, certain land was vested with the third respondent and the official respondents, without ascertaining the same, assigned the land to the third respondent, contrary to the guidelines issued in G.O.Ms.No.555, Revenue Department, dated 26.08.2006.

10. The petitioner claims to have been in possession of the subject matter of the property. The petitioner also referred to 2C patta issued in his name. But, on the contrary, the third respondent has produced B memo on the very same survey number issued in favour of one Kumarasamy from 1982. Therefore, according to the third respondent, the land was in occupation of one K.S.Kumarasamy before the assignment.

11. It is not in dispute that the subject matter of land is a Government land. It has been assigned to the third respondent, without ascertaining as to whether she is eligible under the Scheme announced by the Government and whether she was having any land either in her name or in the name of her husband.

<https://hcservices.courts.gov.in/hcservices/> Accordingly, the writ petition is allowed. The Tahsildar



shall conduct an enquiry as to whether the land was in occupation of one Kumarasamy or in occupation of the petitioner, before the assignment of land under the Scheme and restore the land in the custody of the Government.

13. The learned counsel for the fourth respondent submits that the land is in occupation of the fourth respondent and in the land, he raised certain crops and therefore, he may not be disturbed till the period of harvesting the crop.

14. In view of the said submission, the official respondents shall not disturb the possession of the 4th respondent for the period of one year. After harvesting the crop, the official respondents shall take over the possession of the 4th respondent. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1. The District Collector,
Dindigul District,
Dindigul.

2. The Tahsildar,
Vedasandur,
Dindigul District.

+2 CC to M/s.P. VAIRAVASUNDARAM, Advocate (SR-16508[F] dated 05/04/2022)

+1 CC to M/s.T. ANTONY ARUL RAJ, Advocate (SR-16824[F] dated 06/04/2022)

+1 CC to M/s.SPL.GP (SR-17014[F] dated 06/04/2022)

W.P. (MD)No.11074 of 2009

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