



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **13.06.2022**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P. (MD) .No.14204 of 2011

and

M.P. (MD) .Nos.1 of 2011 and 1 of 2014

K.Raja

... Petitioner

Vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Revenue Divisional Officer,
Revenue Divisional Office,
Sivagangai.

3.The Tahsildar,
Ilayangudi Taluk Office,
Ilayangudi,
Sivagangai.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the pursuant to the impugned notice passed by the second respondent in Na.Ka.A3/6209/2011 dated 24.11.2011.

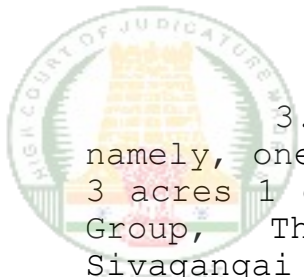
For Petitioner : Mr.J.John

For Respondents : Mr.N.Muthuvijayan
Special Government Pleader

ORDER

The present writ petitioner has challenged the order passed by the Revenue Divisional Officer calling upon his vendor to attend an enquiry relating to the cancellation of assignment patta that was issued in the year 1970.

2. Though the Writ Petition may not be maintainable challenging the show cause notices, in the present case the jurisdiction of the Revenue Divisional Officer calling the writ petitioner for attending the enquiry for cancellation of the assignment order is under challenge.



3. The case of the writ petitioner is that his vendor namely, one Muthu was granted an order of assignment to an extent of 3 acres 1 cent in Survey No.28/6 at Seerathakudi Village, Uthamnoor Group, Thadiyamangalam Village Panchayat, Ilayangudi Taluk, Sivagangai District. In the year 2007, the petitioner has purchased the said property from the original assignee. Thereafter, the revenue patta was also mutated in the name of the writ petitioner in the year 2008.

4. The counsel for the petitioner further submits that on 29.03.2007, the second respondent has issued a show cause notice for cancellation of the assignment order. The said first show cause notice was the subject matter of O.S.No.61 of 2008 on the file of District Munsif cum Judicial Magistrate, Ilayangudi. The suit was filed for declaration of title and permanent injunction as against the District Collector and other official respondents. After trial, the suit was decreed as prayed for.

5. Again, a second show cause notice was issued on 18.11.2008 for cancellation of the same patta. However, no further proceedings were initiated. Now for the third time, a notice has been issued by the second respondent on 24.11.2011. The said notice has been challenged on the ground that the patta has been issued in favour of the petitioner's vendor in the year 1970. When such assignment order was issued in favour of the petitioner's vendor before 1973, there is no power conferred upon the revenue authorities for cancellation of the said assignment order. The learned counsel for the petitioner brought to the notice of the Court that the Government Order in G.O.Ms.No.2555 Revenue dated 14.05.1973 has been passed granting powers upon the District Revenue Officer to cancel the order of assignment without any time limit. This Hon'ble Court while interpreting the said G.O.Ms.No.2555 Revenue dated 14.05.1973 in **W.P.No.906 of 1980 dated 17.06.1986 in the case of (S.Padmavathi Vs. Secretary to Government and Others)** has held that the power conferred upon the District Revenue Officer to cancel the order of assignment is prospective in nature and he can exercise the said power only for the assignment orders issued after 14.05.1973. This order of the learned Single Judge was followed in another judgment in **W.P.No.11836 of 2010 dated 17.03.2021 in the case of (Seriya Pushpam Vs. The Special Commissioner and Commissioner for Land Administration and Others).**

6. Admittedly, in the present case, the assignment order has been issued in favour of the petitioner's vendor in the year 1970. Since the order conferring the powers upon the District Revenue Officer for cancellation of the assignment order is prospective in nature with effect from 14.05.1973 onwards and the impugned notice issued by the second respondent for cancellation of the assignment order is clearly without jurisdiction, this impugned order is set aside.



7. With the above observations, this Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2022

Sub Assistant Registrar(CS)

Nsr

To

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Revenue Divisional Officer,
Revenue Divisional Office,
Sivagangai.

3.The Tahsildar,
Ilayangudi Taluk Office,
Ilayangudi,
Sivagangai.

+1 CC to M/s.J.JOHN, Advocate (SR-25287[F] dated 13/06/2022)

+1 CC to M/s.SPL.GP (SR-25866[F] dated 15/06/2022)

W.P. (MD) .No.14204 of 2011
13.06.2022

RK 20.06.2022 : 3P/6C