



W.P.(MD).No.8201 of 2012

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **12.07.2022**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.8201 of 2012

and

M.P(MD)No.2 of 2012

P.Pitchai

... Petitioner

Vs.

1.The Assistant Commissioner,
Land Reforms,
Madurai-2.

3.The Commissioner,
Land Reforms,
Chennai-5.

3.P.Meenambal

4.Rajeswari

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the first respondent,s impugned order dated 05.02.2007 made in MR-IV/225(4) MDU (N) B3 and subsequently as confirmed by issuing a copy of the order rejecting the request of the petitionr made in MR. 4/225(4)MDU/Aa.3 dated 10.06.2011 in not revising the same in his



W.P.(MD).No.8201 of 2012

favour in relation to the property bearing Survey No.27/1C, 27/1M and 27/3 Ilanthaikulam Village, Madurai North Circle, Madurai District measuring to an extent of 1.75 Acre and 0.18 Acre respectively belonging to the respondents 3 and 4 and quash the same and consequently re-assign the same to the petitioner and other legal heirs of the original allottee of his father U. Pandi forthwith.

For Petitioner : Mr.S.Palani Velayutham

For R1 and R2 : Mr.P.Thambi Durai
Government Advocate

For R3 and R4 : Mr.J.Barathan

ORDER

The present writ petition has been filed challenging an order, dated 05.02.2007, under which an order of assignment was granted in favour of third and fourth respondents herein.

2. According to the learned counsel for the petitioner, his father one Pandi was granted an assignment on 16.03.1985 in relation to three survey numbers. Later, the said order of assignment was cancelled on 19.03.2002. The writ petitioner has challenged the said cancellation of assignment order by way of a revision. The revision was also dismissed



W.P.(MD).No.8201 of 2012

on 06.02.2006. Thereafter, the same lands were assigned in favour of the third and fourth respondents herein.

3. The petitioner has given a representation on 02.02.2011 to the Commissioner (Land Reforms), requesting the authority to cancel the assignment in favour of the third and fourth respondents and re-assign the same in favour of the legal heirs of the deceased Pandi, who was the original assignee. This request was considered by the Assistant Commissioner (Land Reforms) and by way of a communication, dated 10.06.2011, he has held that after the death of the father of the writ petitioner, the petitioner's mother has been granted an order of assignment. As of now, no vacant lands are available for further assignment in favour of the writ petitioner. As and when, some vacant lands are found out, further action could be taken to consider the request of the petitioner for grant of assignment. This writ petition has been filed challenging an order of assignment granted in favour of the third and fourth respondents herein.



W.P.(MD).No.8201 of 2012

4. The learned counsel for the private respondents had contended that the cancellation of the order of assignment by the original authority as well as by the revisional authority have not been challenged. Further, after cancellation, an order of assignment has been granted in favour of the wife of the deceased Pandi, who was the original assignee. Hence, he contended that without disturbing the assignments in favour of the third and fourth respondents, the request of the petitioner can be considered for assignment of some other land.

5. I have carefully considered the submissions made on either side.

6. Admittedly, the assignment order granted in favour of the writ petitioner's father, namely, Pandi has been cancelled in the year 2002 and confirmed in revision in the year 2006. Thereafter, the legal heirs of the deceased Pandi are making an attempt to get an order of assignment in their favour. They have also made a representation on 02.02.2011. In the said representation, an order has been passed that already the wife of the original assignee has been granted assignment and as and when, any vacant site is available, the request of the writ petitioner for assignment will be considered.



W.P.(MD).No.8201 of 2012

7. From the above said facts, it is clear that though the petitioner has challenged an order of assignment in favour of third and fourth respondents on the ground that they are not eligible persons, the said fact has to be considered only by the respondent authorities and the same cannot be challenged by the petitioner. However, the writ petitioner, if found eligible for an order of assignment, his request may be considered by the first respondent herein as per his proceedings, dated 10.06.2011, as and when vacant plots are available. In the said exercise, the assignment already made in favour of the third and fourth respondents shall not be disturbed.

8. With the above said observations, this Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

12.07.2022

Index : Yes / No
Internet : Yes / No
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W.P.(MD).No.8201 of 2012

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W.P.(MD).No.8201 of 2012

R.VIJAYAKUMAR ,J.

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W.P.(MD).No.8201 of 2012

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