



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)Nos.4166 & 4167 of 2022

and W.M.P. (MD) .Nos.3574, 3575, 3576 & 3577 of 2022

WEB COPY

Kalimadari @ Kalimuthu .. Petitioner in
W.P.(MD) .No.4166 of 2022
Ramesh .. Petitioner in
W.P.(MD) .No.4167 of 2022

Vs

- 1.The District Collector,
District Collector Office,
Dindigul.
- 2.The Revenue Divisional Officer,
Palani,
Dindigul District.
- 3.The Tahsildar,
Ottanchathiram,
Dindigul District. .. Respondents in both writ petitions

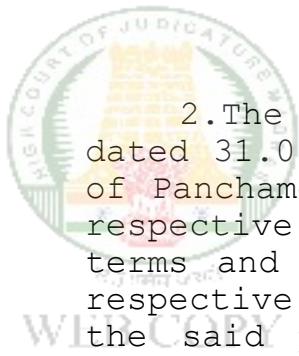
COMMON PRAYER: Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records and to quash the impugned proceedings in Na.Ka.No.10089/2021/m6, dated 06.01.2022, on the file of the 2nd respondent and the originating impugned communication on the file of the 3rd respondent, dated 20.12.2021 in Na.Ka.5365/2021/22 as illegal, arbitrary and without jurisdiction and consequently, forbear the respondents from interfering with the possession and enjoyment of the petitioners and persons claiming under them over the land in Survey Nos.89/5 & 89/6 respectively in Sindhaiapatti Village, Ottanchathiram, Dindigul District.

For Petitioners : Mr.H.Lakshmi Shankar

For Respondents : Mr.D.Sasikumar
Additional Government Pleader
(in Both writ petitions)

COMMON ORDER

These writ petitions have been filed challenging the impugned communication issued by the third respondent, dated 20.12.2021, to the second respondent, as well as the impugned notice, dated 06.01.2022, received by the petitioners, calling the petitioners for enquiry on 25.01.2022.



2.The case of the petitioners is that under an assignment order dated 31.08.1970, the State Government has assigned lands in favour of Panchamers and Patta Nos.196 & 197 were issued in favour of the respective petitioners. It is the case of the petitioners that the terms and conditions of the assignment were never violated by the respective petitioners and they are in possession and enjoyment of the said property ever since the date of assignment. However, without authority under law, the third respondent has issued a communication to the second respondent on 20.12.2021, calling upon him to take action for cancellation of pattas issued to the respective petitioners, pursuant to the assignment order, dated 31.08.1970. According to the respective petitioners, the third respondent has predetermined the issue by coming to the conclusion that the respective petitioners are not entitled for patta and the same will have to be cancelled as seen from the communication, dated 20.12.2021, addressed to the second respondent. The petitioners have also challenged the communication, dated 06.01.2022, received by them, calling upon the respective petitioners for enquiry on 25.01.2022, in respect of the cancellation of the patta proceedings, initiated by the second respondent at the behest of the third respondent.

3.The petitioners have challenged the impugned communications raising the following grounds:

- a) The impugned proceedings are without jurisdiction as the respondents 2 and 3 have no authority under law to cancel the assignment in favour of Panchamar Lands for the purpose of converting the land in house sites and also to change the classification of the land.
- b) The assignment by the Government being a grant of tile in favour of the beneficiary, only if the conditions stipulated therein are violated the government can take steps to avoid the assignment and resume the land, after proper legal proceedings. According to the respective petitioners, they have not committed any violation of terms and conditions of the assignment and therefore the respondents are not empowered to cancel the pattas issued in favour of the respective petitioners.
- c) The third respondent has no competency or authority to request the second respondent to cancel the assignment made validity before 50 years, on his whims and fancies. Hence, the proceedings are abinitio void and without jurisdiction.
- d) The impugned proceedings and the impugned notice calling for enquiry have been initiated as an empty formality for achieving a pre-determined object which is illegal, impermissible and when there is no question of factual findings requiring adjudication in this case, by conducting an enquiry. The enquiry is farce and the result is a fore gone conclusion.
- e) The very purpose and object of cancelling the assignment and resuming the land assigned to the 'Panchamar', without there being any violation, is illegal and therefore, against public policy and against the assignment.



4.The impugned communication received by the respective petitioners on 06.01.2022, from the second respondent is only an intimation to the petitioners about the date of enquiry that is on 25.01.2022, with regard to the cancellation proceedings initiated by the second respondent at the behest of the third respondent for cancelling the petitioners' patta, which was issued in the year 1970, under an assignment. No final orders have been passed by the second respondent. The petitioners have only been called for an enquiry in the cancellation proceedings.

5.It is settled law that a notice of such a nature calling the petitioners for enquiry cannot be interfered with, unless and until the same has been issued without jurisdiction and authority under law. Though the petitioners may plead that the notice has been issued without jurisdiction and without authority under law, there is no clinching evidence placed before this Court to show that the impugned communications have been issued without authority under law. It is yet to be seen as to who is going to pass final orders, whether it is first respondent or second respondent or third respondent. The contention of the petitioners before this Court was that only the Government can pass orders for cancellation of patta, that too, only if the terms and conditions were violated. All these factors will have to be considered only in the enquiry proceedings.

6.The petitioners have approached this Court prematurely, though they may have valid grounds for rejection of the respondents' action against them for cancellation of patta issued in their favour in the year 1970. But, the aforementioned grounds raised by the petitioners enumerated above can be considered only in the impugned proceedings initiated by the second respondent, which is under challenge in these writ petitions. In the considered view of this Court, even before submitting a written explanation, the petitioners have approached this Court prematurely.

7.No prejudice will be caused to the respective petitioners, if they submit an explanation raising the very same ground that they have raised in these writ petitions, which have been enumerated supra, while they submit their explanations before the second respondent in the enquiry proceedings initiated by the second respondent.

8.Therefore, the only relief that can be granted to the petitioners at this stage is to permit them to submit a written explanation raising all the grounds, which they have raised in these writ petitions, in the enquiry proceedings initiated by the second respondent, which is the subject matter of challenge in these writ petitions and a direction can be issued to the second respondent to consider those grounds on merits and in accordance with law, after affording a fair hearing to the petitioners including granting them the right of personal hearing.



9. Accordingly, these writ petitions are disposed of by directing the respective petitioners to submit a written explanation raising the grounds, which they have raised in these writ petitions as enumerated supra, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the said explanation, the second respondent shall pass final orders on merits and in accordance with law, after affording a fair hearing to the petitioners, including granting them the right of personal hearing and by furnishing copies of the reports relied upon by him, within a period of six months, thereafter. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AD-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

TM

Note: *In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.*

To

1. The District Collector,
District Collector Office, Dindigul.

2. The Revenue Divisional Officer,
Palani, Dindigul District.

3. The Tahsildar, Ottanchathiram,
Dindigul District.

+1 CC to M/s.H.LAKSHMI SHANKAR, Advocate (SR-11045[F] dated 10/03/2022)

+1 CC to M/s.SPL GP (SR-11159[F] dated 10/03/2022)

W.P. (MD)Nos.4166 & 4167 of 2022

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SR(CO)

TR(21.03.2022) 4P 6C