



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2022

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P. (MD) .No.6511 of 2022

and

W.M.P. (MD) .Nos.5047 and 5048 of 2022

WEB COPY

P.Selvakumar

... Petitioner

Vs.

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2.The Revenue Divisional Officer,
Kovilpatti Division,
Thoothukudi District.

3.The Tahsildar,
Ottapidaram Taluk Office,
Ottapidaram,
Thoothukudi District.

4.The Village President,
S.Kumarapuram Village Panchayat,
Ottapidaram Taluk,
Thoothukudi District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to quash the impugned order passed by the second respondent in Na.Ka.Aa.1/616/2022 dated 09.02.2022 and consequently direct the respondents to grant a new assignment patta in favour of the petitioner for the land situated at 421/38 of S.Kumarapuram Village, to an extent of 83 square meter.

For Petitioner	:	Mr.S.Vishnuvardhan
For R-1 to R-3	:	Mr.T.Amjad Khan, Government Advocate.
For R-4	:	Mr.Selva Ganesan, Additional Government Pleader.

ORDER

This Writ Petition has been filed challenging the order dated 09.02.2022 passed by the second respondent cancelling the assignment patta issued in favour of the petitioner in the year 2005 on the ground of violation of conditions for the assignment patta by the petitioner.

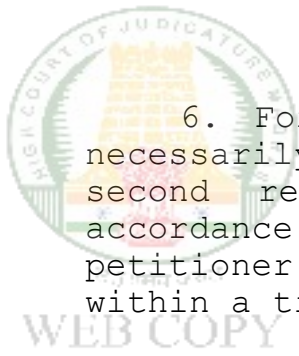


2. The petitioner has challenged the impugned order on the ground of violation of principles of natural justice and also on the ground that by total non-application of mind and without any evidence, the impugned order came to be passed. According to the petitioner, the assignment patta was issued in favour of the petitioner in the year 2005 which came to be cancelled under the impugned order dated 09.02.2022. It is his case that a civil suit was filed by the neighbouring land owner questioning the assignment in favour of the petitioner. The said civil suit is O.S.No.203 of 2015 on the file of the District Munsif Court, Thoothukudi. According to him, the said suit attained finality only on 04.12.2019 when the same came to be dismissed. It is the contention of the petitioner that, only under those circumstances, he was unable to put up construction as per the terms and conditions of the assignment patta.

3. The second ground for cancellation of the assignment patta in favour of the petitioner is that the petitioner is owning another house and therefore, he is not entitled for an assignment patta. According to the petitioner, without any evidence, the said reason has been given for cancellation of the assignment patta in his name. According to him, he does not own any house and therefore, the reason given for cancellation of the assignment patta is not correct. It is also contended by the petitioner that without affording any opportunity of hearing, arbitrarily and illegally, the second respondent has passed the impugned order dated 09.02.2022 cancelling the assignment patta of the petitioner which was issued in the year 2005.

4. This Court has perused and examined the impugned order as well as the documents filed in support of the Writ Petition. Admittedly, the assignment patta was issued in favour of the petitioner on 08.09.2005. It is also not in dispute that a civil suit was filed by the neighbouring land owner against the petitioner in O.S.No.203 of 2015 on the file of the District Munsif Court, Thoothukudi questioning the assignment granted in favour of the petitioner. The said suit attained finality only by the judgment and decree dated 04.12.2019 passed in O.S.No.203 of 2015 on the file of the District Munsif Court, Thoothukudi. The reason for not putting up construction as per the terms and conditions of the assignment patta given by the petitioner is that only due to the pendency of the aforementioned suit, he was unable to put up construction. The said reason seems to be a reasonable one. The petitioner has also not been given any opportunity of hearing by the second respondent in the impugned order, dated 09.02.2022, cancelling the assignment patta issued in favour of the petitioner in the year 2005.

5. Therefore, this Court is of the considered view that the principles of natural justice have been violated and the second respondent has not considered the objections that have been raised



6. For the foregoing reasons, the impugned order has to be necessarily quashed and the matter has to be remanded back to the second respondent for fresh consideration on merits and in accordance with law, after affording a fair hearing to the petitioner including granting him the right of personal hearing, within a time frame to be fixed by this Court.

7. In the result, the impugned order dated 09.02.2022 passed by the second respondent is hereby quashed and the matter is remanded back to the second respondent for fresh consideration on merits and in accordance with law, after affording a fair hearing to the petitioner including granting him the right of personal hearing. The second respondent is directed to pass final orders within a period of four (4) months from the date of receipt of a copy of this order.

8. With the aforesaid direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Lm

To

1.The District Collector,
Thoothukudi District,Thoothukudi.

2.The Revenue Divisional Officer,
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3.The Tahsildar,
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+1 CC to M/s.SPL.GP (SR-17840[F] dated 11/04/2022)

W.P. (MD) .No.6511 of 2022

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MGJ(22.04.2022) 3P 6C