



W.P.No.4726 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.4726 of 2018

and

W.M.P.No.5838 of 2018

M.James

... Petitioner

Vs.

1.The District Collector,
Tiruvannamalai District,
Tiruvannamalai.

2.The Revenue Divisional Officer,
Cheyyar, Tiruvannamalai District.

3.The Tahsildar,
Chetpet Taluk, Chetpet,
Tiruvannamalai District.

4.A.Arulappan

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, calling for the records relating to the second respondent herein in RC. A4/ 2279/ 2017 dated 15.2.2018 and the consequential order of the third respondent in



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Na.Ka. G1/ 4853/ 2016 dated 15.2.2018 and quash the same and consequently direct the respondents to evict the fourth respondent in the land assigned to the petitioner in S.No.256/1 to an extent of 8.5 ares (21 cents).

For Petitioner : Mr.R.S.Anandan

For Respondents
(for R1 to R3) : Mr.T.Arun Kumar
Additional Government Pleader
(for R4) : No Appearance

ORDER

The writ on hand has been instituted, questioning the validity of the order of the Tahsildar in R.C.A4/2279/2017 dated 15.02.2018.

2. The petitioner states that he was assigned 21 cents of Government land under a scheme for landless poor persons. Patta was issued in favour of the writ petitioner in patta No.1399 to an extent of 8.50 ares. The petitioner himself states that on account of water scarcity, he could not do agricultural works, or plant Teak wood tree or Sandal wood tree. However, he has planted Plantain tree, Lemon tree, Pomegranate tree, Guava tree and eked out his livelihood. The petitioner states that he has no other source of



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income. Under Annai Kudiyirupu Scheme of the Government, he constructed a small house with asbestos sheet to an extent of 400 sq.ft. The petitioner states the he is living along with his family. Electricity and water connections are provided. In the remaining land, the petitioner is cultivating vegetables.

3. The petitioner states that taking advantage of his partial blindness, the 4th respondent Mr.A.Arulappan encroached upon the land assigned in favour of the writ petitioner and constructed a house. The petitioner questioned the same and subsequently the said Arulappan filed O.S.No.27 of 2013 before the District Munsif Court, Polur, for injunction. The 4th respondent, suppressing the filing of the civil suit instituted a writ petition in W.P.No.38882 of 2016 for a direction to issue patta in his favour. This Court directed the authorities to consider the application submitted by the 4th respondent for grant of patta. Thereafter, the petitioner also instituted a civil suit in O.S.No.7 of 2018 before the District Munsif Court, Polur, for a declaration and to remove the encroachments made by the 4th respondent.

4. The respondents 1 to 3 conducted an inspection and initiated action, and consequently cancelled the assignment granted in favour of the



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writ petitioner through the impugned proceedings. Thus, the petitioner is constrained to move the present writ petition.

5. The learned counsel for the petitioner mainly contended that the order impugned has been passed without conducting any inquiry and the encroachment made by the 4th respondent was also questioned by the petitioner. Those aspects were not considered by the authorities and the impugned order has been issued. Thus it is to be set aside.

6. The learned Additional Government Pleader, appearing on behalf of the respondents 1 to 3, raised an objection by stating that the competent authorities issued a show cause notice on 30.05.2017 to the writ petitioner. After conducting an inquiry, the Tahsildar, along with the Survey Officials, conducted a field inspection. On conducting the field inspections, the authorities came to know about the fact that the assigned land was not utilised for cultivation for more than 20 years, and the petitioner and the 4th respondent have constructed houses, obtained electricity service connection, water connection and thereby violated the assignment conditions. The details of the constructions were also stated in the impugned order. Since the assignment conditions are violated by the



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assignees, the competent authorities cancelled the assignment by invoking the powers conferred under Revenue Standing Order 15(3)(2)(xi).

7. The assignment conditions unambiguously stipulates that the assigned lands are to be utilised only for cultivation. In the event of utilising the assigned land for any other purpose, the Government is empowered to inflict ground rent. In the event of violation of any of the assignment conditions, the authorities competent are empowered to cancel the assignment under the revenue standing orders. Condition No.3 also stipulates that 3 years from the date of assignment, the petitioner shall convert the assigned land as cultivating land and in the event of failure, the assigned land will be treated as Government lands. Conjoint reading of condition 3 and 7 would indicate that the authorities in the present case under the R.S.O.15 has rightly cancelled the assignment granted in favour of the writ petitioner.

8. The field inspection conducted by the authorities revealed that the land is not under cultivation for more than 20 years and more so, residential buildings are constructed without the knowledge of the authorities and without obtaining permission from the revenue authorities.



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Mere institution of the suit, both by the petitioner and the 4th respondent, would not preclude the authorities from exercising the powers conferred under the revenue standing orders based on the assignment conditions imposed on the writ petitioner.

9. The factum established would be sufficient enough to form an opinion that the cancellation of assignment is in consonance with the revenue standing orders and is based on the assignment conditions.

10. Accordingly, the respondents 1 to 3 are directed to resume the subject property from the encroachers as well as from the assignees who have violated the conditions.

11. If at all, the petitioner is eligible for grant of free patta under the scheme for landless or poor people, then he is at liberty to submit an application and in the event of any such application, the same shall be considered scrupulously in consonance with the terms and conditions of the welfare scheme in force.



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WEB COPY 12. With the above directions, the writ petition stands **dismissed**.

No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes

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Speaking Order

Neutral Citation : Yes

(sha)

To

1.The District Collector,
Tiruvannamalai District,
Tiruvannamalai.

2.The Revenue Divisional Officer,
Cheyyar, Tiruvannamalai District.

3.The Tahsildar,
Chetpet Taluk, Chetpet,
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S.M.SUBRAMANIAM. J.,

(sha)

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