



W.A.No.2533 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2023

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THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.2533 of 2022

G.D.Chrystal Jeyamathy

.. Appellant

Vs.

- 1.The Secretary,
Government of Tamil Nadu,
Department of Revenue,
Fort St. George,
Chennai-600 009.
- 2.The District Collector,
Thiruvallur District,
Thiruvallur.
- 3.The Commissioner,
Land Administration,
Chepauk, Chennai-600 005.
- 4.The District Revenue Officer,
Thiruvallur.



W.A.No.2533 of 2022

WEB COPY

5.The Revenue Divisional Officer,
Ponneri Revenue Division,
Ponneri.

6.The Tahsildar,
Gummidipoondi Taluk,
Gummidipoondi.

.. Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent against the order of the learned Single Judge dated 23.9.2021 passed in W.P.No.30633 of 2012.

For the Appellant : Mr. E. Om Prakash
Senior Counsel
for M/s.Ramalingam and
Associates

For the Respondents : Mrs.R.Anitha
Spl. Government Pleader

JUDGMENT
(Delivered by the Hon'ble Chief Justice)

We have heard Mr.E.Om Prakash, learned Senior Counsel for M/s.Ramalingam and Associates, learned counsel for the appellant; and Mrs.R.Anitha, learned Special Government Pleader for the respondents.



W.A.No.2533 of 2022

WEB COPY

2. The appellant had filed a writ petition, bearing W.P.No.30633 of 2012, seeking directions against the respondents to grant patta to the appellant for the property comprised in Survey Nos.579/1, 2 and 3 of Nemalur Village, Gummidipoondi Taluk, admeasuring 3.16 acres.

3. The learned Single Judge has dismissed the writ petition. Aggrieved thereby, the present writ appeal.

4. Mr.E.Om Prakash, learned Senior Counsel for the appellant strenuously contends that the father of the appellant was a freedom fighter. Considering the benevolent scheme, the father of the appellant was placed in possession of 3.16 acres of the subject writ land. Even the process for assigning the said land was initiated. Along with the appellant's father, two other freedom fighters had also sought for possession and allotment of agricultural land for their livelihood. The other two freedom fighters were allotted the land, however, the appellant's father was not allotted the land and



W.A.No.2533 of 2022

the process was continuing. The father of the appellant died on 4.12.1993. The appellant is the only daughter and the legal heir of her deceased father. The mother of the appellant has also passed away.

5. Learned Senior Counsel submits that the appellant, being the legal heir, came into possession of the subject writ land and thereafter continued the proceedings for allotment/assignment of the land. Correspondence was also made by the District Collector. Even in the year 2006, the Tahsildar, after field inspection, recommended to allot/assign the land in the name of the appellant at Rs.269/- per cent, totalling Rs.85,004/-. The appellant is ready to abide by the same and pay the said amount. However, the assignment of the land has not been made in favour of the appellant. The learned Single Judge, only on the ground that the scheme does not contemplate allotment to a legal heir, has dismissed the writ petition.



W.A.No.2533 of 2022

WEB COPY

6. According to learned Senior Counsel, the appellant had earlier approached this Court by filing a writ petition, bearing W.P.No.28848 of 2011, seeking directions against the respondents therein to issue patta in favour of the appellant. This Court, considering the positive stand taken by the State authority in the counter that the request of the appellant dated 24.6.2010 and 14.1.2011 would be considered and appropriate orders would be passed, disposed of the writ petition directing the authority to take a decision within three months. It is also further directed that while considering the representation of the appellant, the respondents should consider that the land was initially allotted/was in possession of the father of the appellant, who was freedom fighter and had requested for allotment of land as freedom fighter. According to learned Senior Counsel, the order dated 30.3.2012 passed in W.P.No.28848 of 2011 has not been complied with and, on the contrary, the respondents have taken a decision not compatible with the said order.



W.A.No.2533 of 2022

WEB COPY

7. According to learned Senior Counsel, for more than 30 years, the appellant is in possession of the property. The said aspect need to be considered. The appellant cannot be said to be an encroacher. The appellant cannot be unceremoniously driven out of the property.

8. Learned Senior Counsel submits that at least on the ground of parity the case of the appellant can be considered. The other two freedom fighters have been allotted land in the year 1998 itself and at that time the father of the appellant was alive. There was no reason not to allot/assign the land in favour of the father of the appellant, *inter alia*, the appellant.

9. Mrs.R.Anitha, learned Special Government Pleader appearing for the respondents submits that, had the father of the appellant been alive, then the case of the father of the appellant as a freedom fighter could have been considered. There is no provision for allotment of land to the legal heir of the freedom fighter.

Page 6 of 10



W.A.No.2533 of 2022

WEB COPY

10. We have considered the submissions.

11. The allotment of land to the freedom fighter is a benevolent/beneficial policy decision. The same is to provide means of livelihood to the freedom fighter and further to recognise the contribution of the freedom fighter. The father of the appellant, according to the respondents, has encroached upon the land and he was not assigned the land. Even if the father of the appellant had encroached upon the land, still his case could have been considered for allotment/assignment had he been alive. The assignment was never made in favour of the father of the appellant. In the light of that, the appellant, as legal heir, cannot claim any right, title or interest over the said property. No legal right is created in favour of the appellant in the absence of assignment of land in favour of the father of the appellant. The right of the appellant is not independent, however, would only claim through her father. As the father of the appellant was never assigned the land, the appellant could not claim any right over the property. The legal heir could

Page 7 of 10



W.A.No.2533 of 2022

WEB COPY

have enforced the performance on the part of the respondents had the right been crystallized in favour of her father. As discussed supra, the right in favour of the father of the appellant was not crystallized. As such, the appellant also could not have claimed any right as legal heir of the father.

12. At this juncture, learned Senior Counsel for the appellant submits that the appellant may approach the government with regard to the allotment of land. It is between the appellant and the government to take a decision in that regard.

13. In the light of the above, the writ appeal stands disposed of. There will be no order as to costs.

(S.V.G., CJ.)

(D.B.C., J.)

08.12.2023

Index : Yes/No
Neutral Citation : Yes/No
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