



WEB COPY

W.P.No.27575 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.27575 of 2023

and

WMP.No. 27025 of 2023

1.Sivaprakasam

2.Dharmalingam

3.Pakkiyam

... Petitioners

Vs.

1.The Revenue Divisional Officer,
Perambalur,
Perambalur District.

2.The Tahsildar,
Taluk Office,
Veppanthattai Taluk,
Perambalur District.

3.Usha

4.Raja

5.Manjula

6.Chinnadurai



7.Manikandan

8.Mani

... Respondents

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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records relating to the proceedings in Ni.Mu.A2/5485/2022, dated 25.08.2023 on the file of the 1st respondent herein and quash the same.

For Petitioners : Mr.V.Illanchezian

For R1 & R2 : Mr.C.Jaya Prakash,
Government Advocate.

ORDER

The cancellation of assignment made by the Revenue Divisional Officer, Perambalur in proceedings dated 25.08.2023, is sought to be quashed in the present writ petition.

2. The writ petitioners were assigned with the Government land under the Revenue Standing Order for the purpose of developing the cultivation. The original assignment was granted in the name of the father of the writ petitioners and after the demise of their father, the petitioners are cultivating the assigned land belonging to the Government.



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3. The petitioners state that the people of that locality had given a representation to the District Collector, Perambalur on the 'Public Grievance Day' stating that the petitioners are not permitting the public to utilize the pathway earmarked for reaching the agricultural lands in that locality. In other words, the petitioners are illegally restraining the people of that locality from utilizing the public pathway and extending the cultivation in the pathway also. Based on the complaint, summons were issued to the petitioners and to the complainants to appear for an inquiry which was conducted on 24.01.2023. The petitioners have also appeared before the 1st respondent/Revenue Divisional Officer, who in turn recorded the statement from the Village Administrative Officer, Noothappor village and heard the petitioners and the other villagers. But it is not in dispute that the petitioners had participated in the process of inquiry.

4. The learned counsel for the petitioners states that the inquiry was conducted on two occasions and the statement of the petitioners have not been recorded. On 26.07.2023, the Revenue Inspector of Pasumbaloor had given a report, considering the facts and circumstances and the statement of



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the Revenue authorities, the Revenue Divisional Officer had passed an impugned Order in proceedings, dated 25.08.2023, canceling the conditional assignment granted originally in favour of the father of the writ petitioners and now the subject land is under the possession of the writ petitioners.

5. The learned Government Advocate appearing on behalf of the State has brought to the notice of this Court that the petitioners have already initiated a Civil Suit in O.S.No.12 of 2023, for the relief of declaration to declare the common pathway as their own land. The affidavit filed by the petitioners in paragraph 12 reveals that the petitioners had filed a Suit in O.S.No.12 of 2023 against the respondents for the relief of declaration, to the nearby land of the petitioners in Survey No.5/1 and 4/2 to an extent of 2,000 Square feet, which is an adjacent land and nowhere connected with the lands mentioned in the impugned Order. Therefore, it is apparently clear that the Suit was instituted for the relief of declaration to declare the portion of the land belonged to the petitioners.

6. The learned counsel for the petitioners now made a submission that the petitioners have no objection for providing pathway. Mere statement now



made before this Court after passing of the impugned Order and on institution of the Civil Court before the competent Civil Court cannot be trusted upon.

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7. Conditional assignment of Government lands are granted to protect the livelihood of the landless poor people in the villages. Revenue standing orders empower the Government to assign the agricultural lands to protect the livelihood of the people of that locality. Whether the petitioners are eligible for such assignment of agricultural land or not itself is to be looked into. The original assignment was granted in favour of the father of the writ petitioners several years back. On account of efflux of time, the eligibility if continues or not, is to be ascertained by the competent Authorities of the Revenue Department. If the family members of the petitioners are not falling under the eligibility criteria i.e., landless poor people, then the assignments are to be canceled and the lands are to be re-assigned for the eligible and bona fide landless poor people in adherence to the principles of social justice as enumerated under the Constitution of India.

8. The principles of social justice and equality requires that the



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assignments are to be reviewed periodically considering the eligibility of the assignees. The assignment of Government lands are not static and it should be periodically reviewed by the Competent Authorities, in order to maintain equality and to eliminate inequality. Therefore, one's assignment cannot be construed as always an assignment. Assignments are subject to cancellation based on the eligibility criteria and if the family of the assignee has owned any further properties or otherwise, assignments are liable to be canceled and the Government lands are to be re-assigned to other landless poor people to protect their livelihood and to achieve the constitutional goal of “social justice”. Revolving mechanism is required in this context by the Government so as to ensure that the equality clause enunciated under the constitution is truly in order.

9. In the present case, the petitioners had prevented the people of that locality to utilize the common pathway to reach their agricultural lands. Thus, the village people had given a complaint to the District Collector. The District Collector had directed the Revenue Divisional Officer to conduct an inquiry by affording opportunity to all the parties and by recording the statement of the Revenue Officials and by considering the records available,



passed an Order canceling the assignment, granted originally in favour of the father of the writ petitioners. The assignment was initially granted in the year 1996 in favour of the father of the writ petitioners. Almost 27 years lapsed. Whether the family members of the petitioners still continue to be in poverty or not is to be ascertained by the competent Authorities. If not, the assignment is liable to be canceled. However, in the present case, the petitioners have violated the conditions imposed in the assignment. They have not only prevented the village people from utilizing the common pathway but also instituted a Civil Suit for declaration to declare the pathway as their own property.

10. This being the factum, the petitioners are not entitled for the relief. If at all, the petitioners want to give any undertaking that they will not prevent anybody or that they continue to be below in poverty line and are eligible for assignment of agricultural lands, in consonance with the revenue standing orders, it is for the petitioners to approach the competent Authority.

11. As far as the impugned Order is concerned, this Court do not find any infirmity and accordingly, the Writ Petition stands dismissed. No costs.



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Consequently, connected miscellaneous petition is closed.

26.09.2023

(2/2)

veda/mkn2 /krk

Index : Yes/No

Speaking order/Non speaking order

Neutral Citation : Yes /No

To

1.The Revenue Divisional Officer,
Perambalur,
Perambalur District.

2.The Tahsildar,
Taluk Office,
Veppanthattai Taluk,
Perambalur District.



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W.P.No.27575 of



S.M.SUBRAMANIAM, J.

veda/mkn2/krk

W.P.No.27575 of 2023
and
WMP.No.27025 of 2023

26.09.2023
(2/2)