



WEB COPY

W.P.Nos.14379, 14414, 14415 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.08.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.14379, 14414, 14415 of 2017

and

W.M.P.Nos.15591 and 15592 of 2017 and 17017 to 17020 of 2018

W.P.No.14379 of 2017

K.Ilanchezian

... Petitioner

Vs.

1.The District Collector,
Villupuram.

2.The Tahsildar,
Chinnasalem Taluk,
Villupuram District.

3.Chinnasamy

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned order passed in Proceedings Order Aa 8/3939/2017 dated 29.05.2017 on the file of the 1st respondent insofar as it relates to directing the 2nd respondent to cancel the transfer of patta and effect changes in the revenue records and to quash the same.



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W.P.Nos.14379, 14414, 14415 of 2



For Petitioner : Mr.K.K.Senthilvelan, Senior Counsel
for Mr.Navaneetha Krishnan

For R1 & R2 : Mr.E.Sunda Ram,
Government Advocate

For R3 : Mr.V.R.Kamalanathan

W.P.No.14414 of 2017

K.Ilanchezian

... Petitioner

Vs.

1.The District Collector,
Villupuram.

2.The Revenue Divisional Officer,
Kallakurichi,
Villupuram District.

3.The Tahsildar,
Chinnasalem Taluk,
Villupuram District.

4.R.Velmurugan

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed in the 1st respondent herein proceedings in Se.Mu.Aa.Aa.8/23557/2017 dated 12.05.2018 as well as consequential order passed by the 2nd respondent in Proceedings in Na.Ka.A4/2531/2018 dated 17.05.2018 and to quash the same and consequently direct the respondents to restore the name of the petitioner's father.



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W.P.Nos.14379, 14414, 14415 of 2



For Petitioner : Mr.K.K.Senthilvelan, Senior Counsel
for Mr.Navaneetha Krishnan

For R1 to R3 : Mr.E.Sunda Ram,
Government Advocate

For R4 : Mr.V.R.Kamalanathan

W.P.No.14415 of 2017

K.Ilanchezian

... Petitioner

Vs.

1.The District Collector,
Villupuram.

2.The Revenue Divisional Officer,
Kallakurichi,
Villupuram District.

3.The Tahsildar,
Chinnasalem Taluk,
Villupuram District.

4.T.Elumalai

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed in the 1st respondent herein proceedings in Se.Mu.Aa.Aa.8/23557/2017 dated 16.05.2018 as well as consequential



order passed by the 2nd respondent in Proceedings in Na.Ka.A4/2531/2018 dated 17.05.2018 and to quash the same and consequently direct the respondents to restore the name of the petitioner's father.

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For Petitioner : Mr.K.K.Senthilvelan, Senior Counsel
for Mr.Navaneetha Krishnan

For R1 to R3 : Mr.E.Sunda Ram,
Government Advocate

For R4 : Mr.V.R.Kamalanathan

ORDER

The order of the District Collector passed in the proceedings dated 29.05.2017 cancelling the assignment granted in favour of the Tribal Community person is under challenge in the present Writ Petition.

2. The petitioner states that the land comprised in S.No.74/3, Thorangur Village, Chinnasalem, Villupuram measuring to an extent of 1.54.50 acres belonged to one Chinnasamy / the 3rd respondent, who was granted patta by the Settlement Officer. The 3rd respondent had sold the subject property to the father of the writ petitioner / Mr.T.S.Krishnamoorthy



by way of a Sale Deed dated 10.01.1986 vide document No. 39 of 1986 on the file of the District Registrar, Kallakurichi. The petitioner states that he is in possession and enjoyment of the subject property.

3. An enquiry notice was issued by the District Collector pursuant to the order issued by the High Court in W.P.No.38613 of 2016, directing the District Collector to conduct an enquiry and pass appropriate orders.

4. The District Collector had conducted an enquiry and made a finding that the subject property was assigned in favour of the Tribal people that it was in violation of the assignment conditions and in violation of the revenue standing orders, as it was alienated in favour of the father of the writ petitioner, who is not a Tribe and accordingly, the District Collector passed the impugned order cancelling the patta issued in the name of the 3rd respondent.

5. RSO 15(40) speaks about the Hill Tribes as follows:-

“ (40) Hill Tribes:- Conditional assignment:- In the following cases, the assignment of land to Malayalis or



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Sholaga, as the case may be, shall be subject to the conditions that the land shall not be transferred by the assignees to any person outside the class to which they belong without the express sanction of the sanction of the Divisional Officer, and that, if the land is transferred without such sanction or is attached and sold by any legal process, it shall be liable to resumption by the Divisional Officer without payment of any compensation whatever:-

G.O.1197, dt 25-5-20

G.O.Ms.507, Rev, dt 23.3.30

B.P.57, dt.7-7-20

B.P.Mis.29, dt.3-4-30

G.O.Mis.3316, Rev. dt.5-9-58

6. With reference to the revenue standing orders, the Government order issued in G.O. Ms. No. 561, Revenue Department dated 14.03.1979 is to be considered. The said Governmental order was passed regarding the assignment of land to the Hill Tribes and Prohibition of alienation of assigned lands by the Tribals to the Non-Tribals. The Thorangur Village is falling under the Annexure Clause – III, S.No.29 in the Government Order. Therefore, the subject property has been assigned in favour of the Tribal Person / father of the 3rd respondent and the 3rd respondent, who in turn in violation of the assignment conditions, sold the subject property to the



father of the writ petitioner, who is a non-tribal person. The alienation was made in violation of the revenue standing orders and in violation of the Government order issued in G.O. Ms. No. 561, Revenue Department dated 14.03.1979.

7. In view of the said factum, the District Collector, after conducting an enquiry, concluded that the 3rd respondent violated the assignment conditions and consequently, cancelled the patta granted in favour of the writ petitioner.

8. The counter filed by the Tahsildar, Chinnasalem also reveals that one Thiru.Chinnasamy, Kalrayan Hills, Villupuram District filed a Writ Petition in W.P.38613 of 2016 and this Court passed an order to dispose of his representation dated 19.08.2016 in the light of G.O. Ms. No. 561, Revenue Department dated 14.03.1979.

9. Pursuant to the directions issued by this Court, the District



Collector issued notice and conducted an enquiry. During the enquiry, the District Collector found that the 3rd respondent had violated the assignment conditions and alienated the subject property in favour of the father of the writ petitioner and accordingly, cancelled the patta granted in favour of the writ petitioner.

10. The learned counsel for the petitioner states that the Assistant Settlement Officer issued patta in favour of the 3rd respondent and therefore, the said patta is to be construed as Ryotwari Patta under the provisions of the Tamil Nadu Estate Abolition Act. However, there is no such indication in the patta and moreover, the District Collector has categorically stated that the subject property was assigned in favour of the 3rd respondent and such lands were allotted for Hill Tribes and therefore, the Ryotwari Patta was not granted under the provisions of the Act, as claimed by the petitioners. More so, the writ petitioner is a non-tribal person and not entitled to hold the subject property, which is exclusively allotted for Hill Tribes.



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11. Since the 3rd respondent violated the assignment conditions, the assignment is liable to be cancelled.

12. The learned counsel for the 3rd respondent made a submission that some illegalities are going on in that locality and the tribal persons, who all are enjoying the Government assigned land is leasing out / alienating the property for the purpose of excavating stones.

13. This being the factum, the District Collector is directed to conduct a field inspection and if there is any illegal mining, illegal excavation of stones or otherwise, all such activities are to be prevented and appropriate actions are to be initiated against all the persons, who have involved in such illegal activities in the entire hill area.

14. At the outset, any violations or illegalities in the hill areas are to be dealt in accordance with law and the offenders are to be prosecuted in the manner contemplated.



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15. As far as the impugned order is concerned, the 3rd respondent, who was an assignee of hill area under the Hill Tribes category had violated the conditions imposed by the Government and therefore, the alienation of the subject land in favour of the father of the petitioner itself was untenable and thus, the cancellation of patta granted in favour of the petitioner cannot be construed as infirm.

16. Thus, the respondents 1 and 2 are directed to conduct a field inspection and initiate all appropriate actions to resume the Government lands and deal with the same in the manner contemplated under the law.

17. The learned Government Advocate has brought to the notice of this Court that on account of bifurcation of Villupuram District, now the matter is to be dealt with by the District Collector, Kallakurichi. The Registry, High Court is directed to communicate a copy of this order to the District Collector, Kallakurichi for initiating all appropriate action.



18. Accordingly, the Writ Petition stands dismissed. Consequently,
the connected Miscellaneous Petitions are closed. No costs.

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19. Post the matter under the caption, “For Reporting Compliance” on
01.09.2023.

11.08.2023

skr

Index : Yes

Speaking order

Neutral Citation : Yes

To

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Chinnasalem Taluk,
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S.M.SUBRAMANIAM, J.

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