



W.P.(MD) No.1474 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.06.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.1474 of 2020

and

W.MP(MD) Nos.1177 of 2020 and 5725 of 2022

M.Bathurunnisa

... Petitioner

Vs.

- 1.The District Collector,
O/o. The District Collector,
Madurai District.
- 2.The District Revenue Officer,
O/o. District Revenue Office,
Madurai District.
- 3.The Revenue Divisional Officer,
O/o. The Revenue Divisional Officer,
Madurai District.
- 4.The Tahsildar,
O/o. The Tahsildar Office,
Melur Taluk,
Madurai District.

... Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India,
praying for issuance of Writ of Mandamus, to direct the respondents to



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grant patta in the name of the Petitioner in respect of the property situated in S.No.661/1B, Therkutheru Village, Melur Taluk, Madurai District to an extent of 5 acres in conformity with the proceedings of the 1st respondent, dated 26.12.1951, bearing ref.No.23830-C/51.A14 and consequentially to mutate the revenue records in consequence thereof within the period that may be stipulated by this Court.

For Petitioner : Mr.Ajmal Associates

For Respondent : Mr.T.Amjadkhan
Government Advocate

ORDER

The above writ petition has been filed for the issuance of writ of mandamus to direct the respondents to grant patta in the name of the petitioner in respect of the property situated in S.No.661/1B, Therkutheru Village, Melur Taluk, Madurai District, to an extent of 5 acres in conformity with the proceedings of the 1st respondent, dated 26.12.1951, bearing Ref.No.23830-C/51.A14 and consequentially to mutate the revenue records in consequence thereof within the period that may be stipulated by this Court.



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2. It is the case of the petitioner in the affidavit filed in support of the writ petition, that the property was originally assigned to his father Mr.P.Mohideen Khan Sahib, who was a freedom fighter. The assignment was granted on 26.12.1951 through the proceedings of the first respondent in respect of the property comprised in Survey No.661/1B, Therkutheru Village, Melur Taluk, Madurai District, measuring an extent of 5 acres. The petitioner would further submit that he has been living with his father. The petitioner's father has been in possession and enjoyment of the property all along and he has been paying the kist in respect of the same. Despite several requests both oral and written, there has been no response on the respondents and therefore, the present writ petition has been filed seeking a direction to the respondents to grant patta to the petitioner in respect of the above property.

3. The fourth respondent/Tahsildar has filed a counter *inter alia* contending that the assignment granted in favour of the petitioner's father was a temporary one under the Grow More Food Scheme, which was granted in favour of the political sufferers in the year 1951. The



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assignment came with the lot of conditions attached with it and to name a few they are as follows:-

(i) the grant is temporary one upto the end of Fasali 1351 and if the grant is cancelled, the grantee is not entitled to any compensation

b) there shall not be a wet cultivation

c) Periyar water should not be used without permission

d) No well should be sunk on the land without any permission

e) the lands should be cultivated by the assignee himself or the members of his family or with hired labour or with both

f) the assignee should bring the lands under cultivation within a period of three years from the date of order of assignment

g) no land tax will be collected for the first three years

h) any land obtained in excess by fraudulent means or by false declarations will be liable to resumption without compensation for either the land or any of the land improvements thereon .

4. It is the further case of the fourth respondent that since the petitioner's father had not brought the property under cultivation, the



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assignment patta could not be granted. Further, the Grow More Food Scheme was given up with the introduction of the First Five Year Plan. It is further contended that the family of the assignee were not living in the village in question, but was residing at Dindigul and were not in possession to take up agricultural operations. The fourth respondent would further submit that no document whatsoever has been filed on the side of the petitioner to show that the property was being cultivated. It is their further case that totally suppressing the fact that assignment was a temporary one, the petitioner has moved this Court. The property in question has now become very valuable. It is for this reason that the petitioner has moved this Court 15 years after the temporary assignment granted in favour of his father. Therefore, he sought for a dismissal of this petition.

5. During the course of the arguments, the learned counsel for the petitioner would submit that she has been cultivating the land throughout and thereby complying with the conditions of the assignment. Therefore, the petitioner was directed to produce the document concerned on



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08.03.2023. However, to-date the document has not been produced.

Further, the petitioner has produced an adangal extract for fasli 1400-1401. The adangal receipts would show that 'B' Memo charges were being paid in respect of the said land and that apart. there is no description of the cultivation that the defined crops cultivated in the said lands. The petitioner, who was produced the adangal for fasli 1400-1401, has not produced the adangal receipts after 1954 (3 years from the date of the assignment) to show cultivation. The petitioner has, therefore, not been able to establish any right to be allotted the assignment patta.

In view of the above, I see no merits in the above writ petition. Accordingly, this Writ Petition is dismissed. No costs. consequently, connected miscellaneous petitions are closed.

26.06.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
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To

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O/o. The District Collector,
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- 2.The District Revenue Officer,
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Madurai District.
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P.T.ASHA, J.

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