



W.P. (MD).No.6139 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH Court

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DATED: 14.12.2023

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD).No.6139 of 2021
and WMP(MD)Nos.4774 and 5076 of 2021

1.Solai Alagu (Died)

2.Venkateswari

3.Duraisingam

*(Petitioners 2 and 3 impleaded as per order
of this Court in W.M.P(MD)No.25579 of 2023,
dated 14.12.2023)*

... Petitioners

Vs

1. The District Collector,
Sivaganga District.

2. The District Revenue Officer (D.R.O),
Sivaganga District,
District Collectorate, Sivaganga.

3. The Revenue Divisional Officer,
Devakottai, Sivaganag District.

4. The Tahsildar,
Devakottai Taluk, Devakkotai,
Sivaganag District.

5. K.Muthuvijayan



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6.Poornima

*(R6 impleaded as per order of this Court in
W.M.P(MD)No.25579 of 2023, dated 14.12.2023)*

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records relating to the impugned order dated 15/06/2020 by the 2nd respondent in Na.Ka.C2/28344/2019 and quash the same.

For Petitioner & R6: Mr. R.Sundar Srinivasan

For Respondents : Mr.K.S.Selvaganesan (R1-R4)
Additional Government Pleader

No Appearance (R5)

ORDER

This writ petition has been filed challenging the impugned proceedings of the second respondent in Na.Ka.C2/28344/2019, dated 15.06.2020, whereby, the second respondent confirmed the order passed by the third respondent, dated 09.07.2015, cancelling the assignment made in favour of the petitioner.



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2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

3. The case of the petitioner is that she belongs to Scheduled Caste community and she was a landless poor. The subject property in S.No.107/3 measuring an extent of 0.30.0 ares was assigned in favour of the petitioner, through proceedings, dated 21.09.2003 by the fourth respondent. The petitioner was supposed to utilise the land for agricultural purpose. Since there was water scarcity, the petitioner was forced to plant Eucalyptus trees, Tamarind trees and other trees. Right from the beginning, the fifth respondent along with his men was not allowing the petitioner to utilise the land and was attempting to dispossess the petitioner by force. Hence, the petitioner has given repeated complaints and representations before the Authorities. No action was taken against the fifth respondent. While so, the third respondent through proceedings, dated 09.07.2015 unilaterally, cancelled the assignment made in favour of the petitioner, on the complaint made by



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the fifth respondent. The order was passed, without issuing notice to the petitioner and behind the back of the petitioner.

4. When the above came to the notice of the petitioner, the petitioner made an appeal before the second respondent and took a specific ground that without issuing notice and without affording opportunity to the petitioner, assignment was cancelled. The grievance of the petitioner is that the second respondent without considering the same, proceeded to pass the impugned order, dated 15.06.2020, by confirming the cancellation of assignment made in favour of the petitioner. Aggrieved by the same, the present writ petition has been filed.

5. The second respondent has filed a counter affidavit and has taken a very specific stand that the petitioner did not make any cultivation in the property for more than three years and the same was in violation of the condition of assignment and hence, the assignment was cancelled. Hence, the second respondent has justified the impugned order passed against the petitioner and has sought for dismissal of the writ petition.



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6.The primary ground that was raised by the learned counsel for the petitioner is that the Revenue Divisional Officer passed the order based on the complaint made by the fifth respondent, without issuing any notice to the petitioner and without affording opportunity to the petitioner. The learned counsel for the petitioner submitted that the fifth respondent was repeatedly interfering with the possession and enjoyment of the property and was attempting to dispossess the petitioner and the complaints made against the fifth respondent did not evoke any response and such a wrong doer had given a complaint against the petitioner, which was acted upon by the third respondent. The learned counsel further submitted that the petitioner must be given opportunity before the third respondent to put forth her grievance and to explain the purpose for which the land that was assigned was utilised.

7.This Court has carefully considered the submissions on either side and the materials available on record.

8.It is seen from the materials placed before this Court that the fifth respondent was repeatedly causing disturbance to the petitioner.



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Though various representations/complaints were made by the petitioner in this regard, none of those complaints evoked any response. While so, it is the fifth respondent, who has also given a complaint before the third respondent against the petitioner. The third respondent even without issuing notice and without affording opportunity to the petitioner proceeded to pass an order, dated 09.07.2015, cancelling the assignment made in favour of the petitioner. When an appeal was filed before the second respondent, the second respondent ought to have remanded the matter back to the file of the third respondent, since the petitioner was not given opportunity before the order was passed. However, the second respondent has proceeded to deal with the case on merits.

9.In the considered view of this Court, the impugned proceedings of the third respondent, dated 09.07.2015 is vitiated, due to non-compliance of principles of natural justice. In view of the same, the second respondent ought not to have dealt with the case on merits and the matter ought to have been remanded back to the third respondent, instead of the second respondent has chosen to deal with the case on merits. The same requires the intervention of this Court.



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10.In the light of the above discussion, the impugned proceedings of the second respondent in Na.Ka.C2/28344/2019, dated 15.06.2020 is hereby set aside. Consequently, the proceedings of the third respondent, dated 09.07.2015 is also set aside. The matter is remanded back to the file of the third respondent and the third respondent is directed to issue notice to the petitioner and afford an opportunity to the petitioner and thereafter, pass orders on its own merits and in accordance with law. This process shall be completed by the third respondent within a period of six months from the date of receipt of copy of this order.

11.In the result, this writ petition stands allowed with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

14.12.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
PNM



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N.ANAND VENKATESH, J.

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