



W.P.(MD) No.5465 of 2020

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.06.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.5465 of 2020

and

W.M.P.(MD) Nos.4761 and 4762 of 2020

Durai Rasu

.. Petitioner

Vs.

1. Government of Tamilnadu,
Rep., by its Secretary,
Revenue Department,
Chennai.

2. The Assistant Commissioner,
Land Reforms,
Tiruchirappalli.

3. Rasathi

4. Rameshkumar

5. Veerammal

6. The Inspector of Police,
Musiri Police Station,
Murisi, Trichy District.

.. Respondents



W.P.(MD) No.5465 of 2020

WEB COPY

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the second respondent in proceedings MRIV/157-ஈ/58-61, நாள்.09.09.02 and quash the same as illegal and directing the second respondent to assign the land in the Vellore village S.F.No.93/1B hec. 0.44.0 acres of land and hec.93/1D 0.54.050 acres lands in Musiri Taluk, Trichy District.

For Petitioner	:	Mr.S.Muthukrishnan
For RR1, 2 & 6	:	Mr.A.Sivanupandian Government Advocate
For RR3 to 5	:	Mr.A.Joel Paul Antony

ORDER

The petitioner challenges the order of the second respondent dated 09.09.2002.

2. The petitioner bases his claim through his father Pitchai Muthuraja. He would state that his father was assigned 2 Acres and 44 Cents in S.F.No.93/1B, Theraniyampatti, Vellore Post, Musiri, Trichy



W.P.(MD) No.5465 of 2020

District, by order of the second respondent dated 02.07.1977 and he has been in possession and enjoyment of the same. While so, one Sumathi, wife of Selvam, had fabricated an unregistered sale deed on 01.06.1999 and forwarded it to the second respondent, who on receiving the same, had passed an order dated 10.09.1999 cancelling the assignment made in favour of the petitioner's father without affording an opportunity. The said lands were assigned to the said Sumathi by his order dated 01.11.1999.

3. The father of the petitioner submitted a petition to the second respondent to cancel the assignment granted in favour of Sumathi and restore the assignment, which has been made in his favour on 02.07.1977. After enquiry, by order dated 07.01.2000, the assignment in favour of Sumathi was cancelled and the assignment made in favour of the petitioner's father was restored. An appeal was filed by the said Sumathi against the said order, which was allowed by the District Revenue Officer (Land Tribunal), Chennai, by order dated 19.10.2000, and the petitioner had filed a revision before the Land Commissioner,



W.P.(MD) No.5465 of 2020

Chennai, which was dismissed without affording him an opportunity.

Thereafter, a writ petition had been filed in W.P.No.32213 of 2005.

4. Meanwhile, the second respondent had assigned the said 2 Acres and 44 Cents in favour of one Natarajan, son of Salappan, husband of the third respondent, father of the fourth respondent and son of the fifth respondent by order dated 27.09.2002. Though the assignment was cancelled, the petitioner's father continued to be put in possession and enjoyment of the 2 Acres and 44 Cents. The sixth respondent attempted to dispossess the petitioner from the land. The petitioner's father had filed a writ petition forbearing them from dispossessing him from the land. Meanwhile, his father died on 08.08.2019. The petitioner would submit that his father and grandfather were cultivating tenants under the original owner of the land and as on date, they are in enjoyment and possession of 2 Acres and 44 Cents. The lands have not been taken possession from the petitioner's father before passing the impugned order in favour of the third respondent.



W.P.(MD) No.5465 of 2020

WEB COPY

5. The records filed on the side of the petitioner would show that on 19.10.2000, the District Revenue Officer (Land Tribunal), Chennai, had cancelled the patta granted to the petitioner's father once again and this order was confirmed by the Land Commissioner, Chennai on 03.10.2001. These orders were challenged by the petitioner's father by filing W.P.No.31549 of 2005. The said writ petition came to be dismissed for non-prosecution on 24.01.2019. The petitioner has not taken steps to restore the writ petition, but seeks to challenge the order passed on 09.09.2002 assigning the land in favour of the husband of the third respondent. To date, the order cancelling the assignment dated 19.10.2000 and confirmed by order dated 03.10.2001 have not been challenged and they have attained finality. Without challenging the cancellation of the assignment, the petitioner cannot maintain this writ petition, more particularly when the petitioner's father had filed the writ petition, which has been dismissed for non-prosecution and not restored to file. The petitioner would contend that his father had passed away. However, this had not precluded the petitioner from filing necessary application to restore the same.



W.P.(MD) No.5465 of 2020

WEB COPY

6. For the above reasons, this Court do not find any merit in this writ petition and dismisses the same accordingly. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

23.06.2023

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

abr



W.P.(MD) No.5465 of 2020

WEB COPY

To

- 1.The Secretary to Government,
State of Tamilnadu,
Revenue Department,
Chennai.
- 2.The Assistant Commissioner,
Land Reforms,
Tiruchirappalli.
- 3.The Inspector of Police,
Musiri Police Station,
Murisi, Trichy District.



WEB COPY



W.P.(MD) No.5465 of 2020

P.T.ASHA, J.

abr

W.P.(MD) No.5465 of 2020

Dated: 23.06.2023