



W.P.(MD)No.10241 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 01.12.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.10241 of 2020 &
W.M.P.(MD)Nos.9130 & 9131 of 2020

C.Nallappan

....Petitioner

Vs.

1.The District Revenue Officer,
Sivagangai District,
Sivagangai.

2.The Sub Collector,
Devakottai,
Sivagangai District.

3.Thasildar,
Tirupathur Taluk,
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking for a writ of certiorarified mandamus calling for records relating to the impugned order passed by the 2nd respondent in his proceedings in Na.Ka.A3-262-2016 dated 13.04.2016 and consequential order passed by the 1st respondent in his proceedings in O.M.C.2/5015/2019 dated 30.05.2019 and consequently direct the respondents to restore the assignment patta which was granted in the petitioner's favour in the proceedings of the 3rd respondent in



W.P.(MD)No.10241 of 2020

Document No.74/1404 dated 12.09.1994 within a time frame fixed by this Court.

For Petitioner : Mr.S.Alagusundar

For Respondents : Mr.A.K.Manikkam,
Special Government Pleader

ORDER

This writ petition has been filed challenging the impugned proceedings of the first respondent dated 30.05.2019, dismissing the appeal filed by the petitioner against the proceedings of the second respondent dated 13.04.2016 and for a consequential direction to the respondents to restore the assignment patta in the name of the petitioner.

2. The case of the petitioner is that the third respondent through proceedings dated 12.09.1994 assigned the subject property in favour of the petitioner. As per the assignment condition, the petitioner must build his house within a period of twelve months from the date of assignment. The petitioner claims that he had put up a small hut in the assignment land and was in possession and enjoyment of the same.



3. The further case of the petitioner is that the second respondent initiated proceedings for cancellation of the assignment on the ground that the petitioner has not put up any building in the property and that the same is in violation of conditions of assignment. After enquiry, the second respondent through proceedings dated 13.04.2016 cancelled the assignment granted in favour of the petitioner.

4. The petitioner was aggrieved by the order passed by the second respondent and hence filed an appeal before the first respondent. The first respondent through the impugned proceedings dated 30.05.2019, rejected the appeal on the ground that the appeal was not filed within the period of limitation. Aggrieved by the same, the present writ petition has been filed before this Court.

5. The third respondent has filed a counter affidavit. The third respondent has taken a stand that as per the terms and conditions of the assignment and as per R.S.O. 21 (7)(iii), the petitioner has to construct a house within a period of 12 months from the date of assignment. Since the petitioner did not construct any house, the assignment was



W.P.(MD)No.10241 of 2020

cancelled by the second respondent through proceedings dated 13.04.2016. It is further stated that the petitioner ought to have filed the appeal within a period of 30 days from the date of the order passed by the second respondent, whereas, the petitioner filed the appeal with substantial delay of more than two years. The third respondent has taken a stand that the petitioner is not a landless poor and he owns other properties. In view of the same, there are absolutely no grounds to interfere with the orders passed by the first and second respondents and has sought for the dismissal of the writ petition.

6. Heard the learned counsel for the petitioner and the learned Special Government Pleader for ther respondents.

7. In the considered view of this Court, the assignment was granted in favour of the petitioner by the third respondent in the year 1994. The petitioner claims that he has constructed a hut and is in possession and enjoyment of the same. The learned counsel for the petitioner submitted that there are materials to substantiate that the petitioner has constructed a house and is in possession of the same.



W.P.(MD)No.10241 of 2020

Considering the facts and circumstances of the case, this Court is inclined to give one last opportunity to the petitioner to put forth his case before the first respondent and to direct the first respondent to deal with the case on merits and in accordance with law.

8. In view of the above, the proceedings of the first respondent dated 30.05.2019 is hereby set aside and the matter is remanded back to the file of the first respondent. The first respondent shall issue notice to the petitioner and afford opportunity to the petitioner and deal with the case on merits and pass orders strictly in accordance with law within a period of three months from the date of receipt of a copy of this order.

9. In the result, the writ petition is allowed with the above directions. No costs. Consequently, the connected Miscellaneous Petitions are closed.

01.12.2023

NCC : Yes/No
Index : Yes/No
Speaking / Non-speaking order
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W.P.(MD)No.10241 of 2020

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W.P.(MD)No.10241 of 2020

N.ANAND VENKATESH, J.

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W.P.(MD)No.10241 of 2020

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