



**W.P.(MD).Nos.10739 and 13232 of 2021**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED : 19.09.2023**

**CORAM**

**THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.P.(MD).Nos.10739 and 13232 of 2021**

**and**

**W.M.P.(MD).Nos.8360, 10227, 10228 and 10229 and 16532 of 2021**

**W.P.(MD).No.10739 of 2021:**

P.Jeyalakshmi

... Petitioner

**Vs.**

1.The District Collector,  
Tuticorin District,  
Tuticorin.

2.The Assistant Collector (Training),  
Collector Office,  
Tuticorin.

3.The Revenue Divisional Officer,  
Kovilpatti,  
Tuticorin District.

4.The Additional Head Quarters Deputy Thasildar,  
Kovilpatti,  
Tuticorin District.

... Respondents



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**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned Enquiry Notice passed by the third respondent in his proceedings in Na.Ka.M.R.4952/2020, dated 15.06.2021 and quash the same as illegal.

For Petitioner : Mr.C.Mayilvahana Rajendran

For Respondents : Mr.B.Saravanan,  
Additional Government Pleader.

**W.P.(MD).No.13232 of 2021:**

P.Jeyalakshmi

**Vs.**

... Petitioner

- 1.The District Collector,  
Tuticorin District,  
Tuticorin.
- 2.The Assistant Director,  
Department of Geology and Mines,  
Collectorate Buildings,  
Tuticorin District.
- 3.The Assistant Collector,  
Tuticorin District,  
Tuticorin.



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4. The Revenue Divisional Officer,  
Kovilpatti,  
Tiruchirappalli District.

... Respondents

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the first respondent in his proceedings in Na.Ka.No.G.M.1/378/2020 dated 21.06.2021 and quash the same as illegal.

For Petitioner : Mr.V.Malaiyendran

For Respondents : Mr.B.Saravanan,  
Additional Government Pleader.

### **COMMON ORDER**

The Writ Petition in W.P.(MD).No.10739 of 2021 is filed to quash the impugned Enquiry Notice dated 15.06.2021. The Writ Petition in W.P.(MD).No.13232 of 2021 is filed to quash the impugned order dated 21.06.2021.

2. The contention of the petitioner is that he is the purchaser of the land to the extent of 8 acres 98 cents from one K.Marichamy, son of Kovilpitchai



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through sale deed dated 19.12.2012 in Document No.12357 of 2012. The said Marichamy has executed the sale deed based on the Power of Attorney dated 10.12.2012 executed by L.Subburaj, A.Mookkaiah, S.Mariappan and S.Rajkumar vide Document No.11960 of 2012. Originally, the land belongs to Ettayapuram Zamindhar. Under Urban Land Ceiling Act, the said land was taken over by the Government and allotted to one Annapuram and Thayammal vide proceedings dated 09.07.1976. The said fact is accepted by the petitioner and the respondents. In the counter, the respondents further submitted that the said assigned surplus land of Annapuram in S.No.679 of the said Village was sold to one Mariappan on 03.04.1996 through an unregistered document. Similarly, the lands in S.Nos.680 and 682 assigned to one Thayammal were purchased by one Rajkumar through an unregistered deed dated 05.04.1996. Based on the said unregistered deeds, the respondents have mutated the revenue records and issued patta to the said Rajkumar and Mariappan in Patta No.1647 and 1649. Based on the said patta, the petitioner is claiming right over the said property. Even it is accepted, the petitioner is not entitled to patta based on the unregistered sale deed, but as on date the petitioner is in possession of the said land. Interestingly the petitioner submitted that at the most it can be considered as an agreement to sale and hence the petitioner's rights may not be curtailed



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completely. On the other hand, the respondents claims that they have assigned the said land to the subsequent persons namely, Veeraputhiran, Subbulakshmi and Karppayiammal in the year 2012. The respondents have not cancelled the assignment patta which was given to the original owner. Moreover, the respondents without issuing proper notice to the original assignee cannot cancel patta. In the counter, the respondents have not stated how the notice was issued, whether the notice was served, whether the procedural formalities were followed by the respondents before cancelling the patta. The respondents ought to follow the proper procedural formalities as stated in the revenue standing orders and this issue is already been considered by the Hon'ble Division Bench in W.A.No.1201 of 2019 vide judgment dated 08.07.2022 and the relevant portion is extracted hereunder:

“18.In this case, the Revenue Divisional Officer appears to have entertained the proceedings for cancellation of assignment. However, the show cause notices were not issued by the Registered post. This Court is unable to accept the case of the RDO regarding the service of show cause notice to all the 133 persons by affixture as per the order of cancellation of assignment dated 12.08.1987. As pointed out earlier in the case of vendor of the writ petitioner, it is seen that the Village Administration Officer has endorsed that the assignee by name Villayutham refused to receive the notice and hence, notice was served by affixture on the wall. None of the 133 assignees against whom order of cancellation of assignment was made appeared or submitted objections. It is unbelievable. This Court is of the view that there was no notice to any of the assignee before cancellation of assignment. This was done consciously to pass order behind the back of assignees. It is not even stated on whose wall notice was affixed. Similarly the order of cancellation was also communicated by affixture, as per the endorsement made by the Village Administrative Officer. It is seen that in respect of the persons whose address was not known, the Village Administrative Officer



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endorsed that the order was served by affixture in a stick which was posted in the respective land. In respect of others, the Village Administrative Officer reported that the order was served by affixture by pasting the same on the wall or doors of the assignees. Even in the report, the address of the house of the assignee, in which the order was affixed is not mentioned. It is admitted that no notice was sent by registered post. This Court is unable to accept or believe that service of notice and final order was effected by affixture. The arguments of learned Advocate General referring to Tamil Nadu Revenue Summons Act, 1869 is not acceptable as the said Act has no application. Further, when no record is provided to show service of notice by Registered post, notice by affixture is illegal. In this case, this court is unable to believe such service in this case where assignments in 133 cases were cancelled at one stretch without the participation of any one of the assignee. Therefore, this Court hold that there was no notice to the assignee before cancellation and the order of cancellation is not served on the assignee. It is not established that the assignee had knowledge about the cancellation of assignment by any means.

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31.Since this Court has held that the show cause notice as well as the order of cancellation was not served on the assignee at any point of time, the order of cancellation of assignment dated 12.08.87 is bad, illegal and liable to be treated as void and non-est. When the order cancelling the assignment is not even communicated, it is a serious irregularity amounting to fraud with an intention to create vested interest in third parties behind the back of original assignees as the lands are still assessed waste and impugned order gives an indication that the lands are available for fresh assignment.

32. It is to be noticed that the cancellation of assignment is on the ground that the assignee had not brought the land under cultivation within 3 years. Therefore, the cancellation depends upon the fact whether the assignee had brought the land under cultivation within 3 years. When the proceedings are initiated merely after 12 years of assignment, the question was whether the assignee had complied with the valid condition or not. Unless the assignee was given an opportunity it will be unfair to proceed further. Even the report based on which the Revenue Divisional Officer proceeded to initiate action for cancelling the assignment ought to have been served on the assignee. Therefore, the order cancelling assignment is certainly in violation of the principles of natural justice. When the order is not communicated to the assignee and it is not established before this Court that the order was communicated to the assignee, this Court is of the view that the order of cancellation can be treated as void and non-est in the eyes of law. Hence, Points No.1 and 2 are answered by holding that the show cause notice or the order cancelling assignment was served on the assignee.



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And this Court has also followed the said Hon'ble Division Bench judgment in W.P.12443 of 2020 vide order dated 28.08.2023. In the present case, it is seen that the patta was given to the original assignee as early as 1996 and it is an admitted fact that the respondents have not issued notice in registered post to the original assignee and in such circumstances the aforesaid Hon'ble Division Bench judgment is applicable to the present case.

3. In the present case, the respondents have cancelled the license since the assignment to the original assignee was cancelled. As stated supra, this Court had held such cancellation is non-est in law.

4. The petitioner is in possession of land and hence the petitioner's claim ought to be considered. Moreover, before cancelling the quarry license the respondents have not issued proper notice. Therefore, the impugned orders are quashed. The respondents are directed to issue notice and conduct enquiry in the light of the above observation and pass orders.

5. In the meanwhile, the petitioner is at liberty to approach appropriate Civil Court for proper remedy.



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6. With the above direction and observation, the Writ Petitions are allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

**19.09.2023**

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

To

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Tuticorin District,  
Tuticorin.

2.The Assistant Collector (Training),  
Collector Office,  
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3.The Revenue Divisional Officer,  
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**S.SRIMATHY, J.**

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