



W.P.(MD)No.13588 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 01.12.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.13588 of 2020 &
W.M.P.(MD)Nos.11314 & 11315 of 2020

The Tiruchirapalli Misereor Institute,
Jesuits Resident, St.Joseph College,
Tiruchirapalli 620 002.
Rep. by its Secretary.

...Petitioner

Vs.

- 1.The Government of Tamil Nadu
Rep. by its Secretary to Government,
Revenue and Disaster Management Department,
Land Disposal Wing, LD5 (2) Section,
Fort St.George, Chennai - 600 009.
- 2.The Commissioner of Land Administration,
Chepauk, Chennai.
- 3.The District Collector,
Tiruchirapalli
- 4.The Director,
Animal Husbandry and Veterinary Services,
Chennai.
- 5.The District Revenue Officer,
Tiruchirapalli.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorari calling for the records relating to G.O.Ms.No.483, Revenue and Disaster Management Department LD5 (2) Section dated 12.09.2020 of the 1st respondent in respect of lands in S.No.174/1A1, 174/1A3, 171/4, 171/5 to an extent of 19.13 acres in Kottaipattu Village, Tiruchirapalli East Taluk, Tiruchirapalli District and quash the same.

For Petitioner : Mr.S.Vinod Sathya Lazar

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

ORDER

This writ petition has been filed challenging the impugned Government Order in G.O.Ms.No.483, dated 12.09.2020 passed by the first respondent, whereby, the assignment that was granted in favour of the petitioner in the year 1965 was cancelled and lands were directed to be resumed and classified as 'Assessed Waste - Dry'.

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



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3. The case of the petitioner is that the Government through G.O.Ms.No.1296 dated 17.04.1965 accepted the recommendation of Board of Revenue and directed the subject property measuring an extent of 19.15 acres at Kottapattu Village, Tiruchirapalli Taluk be placed at the disposal of the petitioner for utilising the same as a Dairy Farm and for running a Poultry Farm with the usual conditions under BSO 24 and with an added condition that the 'varry' (வாரி) running in the midst of S.F.No.171/5 should not be interfered.

4. Further, the case of the petitioner is that the petitioner was utilising the property to the purpose for which it was assigned. Repeated inspections were made by the revenue authorities and it was found that the petitioner had utilised the property for the purpose for which it was assigned. It was also found that the petitioner has not interfered with the 'varry'. Recommendation was also made to mutate the revenue records in the name of the petitioner. This recommendation was going on till the year 2015 and there were no adverse findings against the petitioner.



5. The petitioner was aggrieved by the fact that the name of the petitioner was not mutated in the revenue records. Therefore, the petitioner filed a writ petition before this Court in W.P.(MD)No.21488 of 2016. This writ petition was disposed of by order dated 19.11.2016 in the following terms.

"4. According to the petitioner, by an order, dated 17.04.1965 in G.O.No.1296, Revenue Department, certain lands were assigned to the petitioner's society for running Diary Farm and Poultry. Subsequently, the petitioner's society has been in possession and enjoyment of the above property from the date of assignment. However, there was no mutation in the revenue records. Hence, he made several representations to the authorities to effect necessary changes in the revenue records. In the year 2001, the Special Commissioner and Commissioner of Land Administration, Chepauk, Chennai, directed the District Revenue officer to make necessary changes in the revenue records. Thereafter, the Tahsildar also filed a report to the District Collector on 10.08.2015, recommended for mutation of revenue



records, which was also followed by recommendation by the Revenue Divisional Officer, dated 30.09.2015. Despite the same, the second respondent-District Revenue Officer is not taking any steps to carry out mutation in the revenue records.

5. In the above circumstances, since the petitioner's representation is pending for a long time, the second respondent is directed to consider the application of the petitioner, dated 13.1.2016, in the light of the order of assignment granted to them, and pass appropriate orders, on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order."

6. Pursuant to the above order, proceedings were initiated by the Revenue Divisional Officer and an adverse report was given against the petitioner and it was recommended for cancellation of the assignment made in favour of the petitioner.



7. Pursuant to the above, notice was issued to the petitioner by the Tahsildar and an enquiry was conducted and it was placed before the first respondent. The first respondent through the impugned Government Order in G.O.Ms.No.483, dated 12.09.2020 directed the assignment to be cancelled and for resumption of land and for re-classification of land as 'Assessed Waste - Dry'. Aggrieved by the same, the present writ petition has been filed before this Court.

8. The main ground that was raised by the learned counsel for the petitioner is that the petitioner is maintaining a Dairy Farm and the petitioner has not disturbed the 'varry'. The learned counsel submitted that the first respondent did not properly appreciate the actual situation on the ground and has proceeded to pass adverse orders against the petitioner.

9. *Per contra*, the learned Special Government Pleader submitted that the petitioner was expected to utilise the property for the purpose for which it was assigned and it was found that there was no evidence of Dairy Farm and Poultry Farm being run by the petitioner. That



apart, it was also found that the petitioner has interfered with 'varry'. In view of the same, the first respondent has cancelled the assignment granted in favour of the petitioner. The learned Special Government Pleader therefore submitted that there is no ground to interfere with the Government Order issued by the first respondent and sought for the dismissal of the writ petition.

10. In the considered view of this Court, this Court will issue a writ of certiorari only if the order suffers from an error of law apparent on the face of the record. This Court will not sit on appeal over the orders passed by the authorities and substitute its views. The impugned Government Order clearly points out to the the report that has been received from the concerned authority and it is stated that there is no evidence of Dairy Farm and Poultry Farm being run in the subject property. In view of the same, a reasoned decision was taken by the first respondent to cancel the earlier assignment made through proceedings dated 17.04.1965 and to resume the lands and to re-classify as 'Assessed Waste - Dry'. This reasoning given by the first respondent does not suffer from any patent illegality warranting the



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interference of this Court. After all, the assignment itself is given for a particular object and purpose and if that is not fulfilled, the Government can always resume the lands and what is important is to see if an opportunity was given before taking the decision and a proper procedure is followed. In the instant case, the opportunity was not denied to the petitioner and the Government has taken into consideration the reports received from the concerned authorities and has come to a conclusion. Therefore, this Court is not inclined to interfere with the impugned Government Order passed by the first respondent in G.O.Ms.No.483, dated 12.09.2020.

11. The learned counsel for the petitioner submitted that the petitioner has made a subsequent representation dated 02.08.2022 to the fifth respondent seeking for exchange of land on the ground that the petitioner has an adjacent land and that the subject property is the only access to this land and the same is pending before the fifth respondent. The learned counsel submitted that sufficient reasons have been given in the representation dated 02.08.2022 for the exchange of land, which will be beneficial both to the petitioner as well as to the authorities.



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12. It is not necessary for this Court to go into the reasons assigned in the representation dated 02.08.2022 and it will suffice, if a direction is given to the first respondent to deal with the representation dated 02.08.2022 and take a decision in accordance with law.

13. In view of the above, the first respondent is directed to deal with the application of the petitioner dated 02.08.2022 and take a decision strictly in accordance with law.

14. In the result, this writ petition is disposed of in the above terms. 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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To

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N.ANAND VENKATESH, J.

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