



W.P.(MD) No.13795 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.06.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.13795 of 2021

and

W.M.P(MD) No.10765 and 10766 of 2021

K.Durairaj

... Petitioner

Vs.

1.The Revenue Divisional Office,
Usilampatti, Madurai District.

2.The Tahsildar,
Peraiyur,
Madurai District.

3.Kannan

4.Pandiammal

... Respondents

(R3 and R4 are impleaded vide Court order dated 16.06.2023
in W.M.P(MD) No.11348 of 2021)

Prayer :- Petition filed under Article 226 of the Constitution of India,
praying for issuance of Writ of Certiorarified Mandamus, to call for the
records pertaining to the impugned order of the 1st respondent in his



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proceedings in Na.Ka.No.1978/2020/A1 dated.22.2.2021 and quash the same as illegal and consequently direct the 2nd respondent to issue fresh patta to the petitioner and also to survey and fix boundaries in the petitioner's land in Survey No.206/15, to an extent of 40 cents, situated at Koovalapuram Village, K.Meenkashipuram, Peraiyur Taluk, Madurai District.

For Petitioner : Mr.J.Jeyakumaran

For R1 & R2 : Mr.Gandiraj
Special Government Pleader

For R3 & R4 : No appearance

ORDER

This writ petition has been filed for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order of the first respondent in his proceedings in Na.Ka.No. 1978/2020/A1 dated.22.2.2021 and quash the same as illegal and consequently direct the second respondent to issue fresh patta to the



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petitioner and also to survey and fix boundaries in the petitioner's land in Survey No.206/15, to an extent of 40 cents, situated at Koovalapuram Village, K.Meenakashipuram, Peraiyur Taluk, Madurai District.

2. The brief facts necessary to dispose of the writ petition are herein below set out:-

It is the case of the petitioner that he is an agricultural coolie and the second respondent had assigned agricultural lands measuring an extent of 40 cents in Survey No.206/15, Koovalapuram Village, K.Meenakashipuram, Peraiyur Taluk, Madurai, by the proceedings dated 24.11.2006 to the petitioner. The lands were assigned with certain conditions. It is the further case of the petitioner that he has complied with all these conditions. The second respondent has issued him with separate patta in Patta No.1680.

(ii) The petitioner would further submit that the primary condition for the assignment, was that the lands were to be cultivated. He has been cultivating the land and he is in possession and enjoyment of the same



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for over 15 years. He would further submit that his marriage to a lady belonging to different caste had caused heartburn amongst other persons in the village and they attempted to dislodge his possession. On 13.03.2020, one Kannan, S/o.Gopal and his mother Pandiammal trespassed into the properties and attempted to put up fence. The petitioner had immediately lodged a police complaint. They had submitted a statement that they will not disturb the petitioner's possession. When the police enquiry was pending, the said Pandiammal filed a petition before this Court in CrI.O.P(MD) No.6380 of 2020 seeking a direction to the police authorities not to harass them under the guise of enquiry. The direction petition was disposed of by the Court and enquiry proceedings were closed by the police.

(iii) The petitioner, on 17.03.2020, made a representation to the second respondent to survey and fix the boundaries of the said lands. Meanwhile, a complaint was received by the second respondent to cancel the assignment patta given to the petitioner. The second respondent had obtained a report from the Inspector of Police, Peraiyur and the Deputy



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Tashildar, T.Kallupatti. By his proceedings, dated 06.06.2020, the second respondent held that the petitioner was not in possession of the land for over 14 years and the land has been described as Tharisu. Challenging the same, the petitioner had filed WP(MD)No.8346 of 2020 to quash the said order and to survey the lands. When the matter came up, the learned Additional Government Pleader had informed that final decision has not been taken and therefore, the writ petition is premature. Hence, this Court disposed of the aforesaid writ petition stating that if the petitioner is aggrieved, he could make an objection to the report, before the first respondent and on receiving the objection, the first respondent should consider and pass orders in the manner known to law. After receipt of the order, a detailed representation was given to the first respondent, who by the order impugned in the instant writ petition, had cancelled the assignment patta issued to the petitioner's name. Hence, the present writ petition has been filed.

3. The learned Additional Government Pleader appearing for the respondents 1 and 2 would produce the records to show that during the



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inspection conducted by the Revenue Inspector, dated 28.06.2012, six persons including the petitioner had not cultivated the lands and the same remained fallow, though the assignment was granted as early in the year 2006.

4. Heard the learned counsel appearing on either side and perused the records.

5. The petitioner is not able to produce a single document to show that from the year 2006, he has been cultivating the lands as per the condition prescribed in the assignment deed by producing adangal, chitta, etc. On the contrary, inspection conducted by the revenue authorities would show that the property in question which had been assigned with the specific condition that it should be cultivated, has remained fallow. Therefore, there is a breach of the assignment condition, which empowers the revenue authorities to cancel the patta.

6. Further, the primary argument on which the writ petition has



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been filed, is that no personal hearing had been given. Therefore, this Court vide order dated 16.06.2023 had directed for production of the original files. A perusal of the same, would show that not only the petitioner was served with notice, but he has also entered appearance on 29.01.2020 through counsel and after hearing the parties, the impugned order has been passed. The revenue documents produced on the side of the respondents 1 and 2 would clearly show that no cultivation had taken place in the property in question. Further, the petitioner has a remedy before the District Revenue Officer. Without exhausting this remedy, the petitioner has filed this writ petition.

7. In view of the above discussions, this Writ Petition is dismissed.
No costs. Consequently, connected miscellaneous petitions are closed.

23.06.2023

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

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Usilampatti, Madurai District.
- 2.The Tahsildar,
Peraiyur,
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P.T.ASHA, J.

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