



W.P.(MD)No.207 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.10.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.207 of 2021

R.Muthukrishnammal

... Petitioner

Vs.

1.The District Collector
Collectorate Complex,
Madurai District.

2.The District Revenue Officer
Office of the District Revenue Officer,
Madurai

3.The Tahsildar
Office of the Tahsildar,
Madurai.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, for a direction to the respondents to issue patta for the land measuring 2 Acre 93 cents in Survey No.364/4 in Saptur Village, Peraiyur Taluk, Madurai District that was assigned in the name of the petitioner as per the Tamil Nadu Land Reform (Disposal of



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Surplus Land) Rules 1965 vide communication MR.IV.No.319A/PYR/B3 by the Assistant Commissioner (Land Reforms), Madurai, dated 15.12.1997.

For Petitioner : Mr.M.M.Iqbal

For R-1 to R-3 : Ms.D.Farjana Ghoushia
Special Government Pleader

ORDER

This Writ Petition has been filed for the issue of writ of mandamus directing the respondents to consider the request made by the petitioner to issue patta for the subject property.

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

3. The petitioner claims that she is in possession and enjoyment of the subject property for a continuous period of time. Therefore, the petitioner made a request for assignment of the subject property in her favour. Since the same was not considered, the present Writ Petition has been filed before this Court.



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4. The second respondent has filed a counter affidavit. The

relevant portions in the counter-affidavit are extracted hereunder:

“5. The brief history of the case is submitted hereunder:

It is submitted that an extent of 90.56 acres in Saptur Village in Usilampatti Taluk, Madurai District was declared as surplus lands under the Tamil Nadu Land Reforms (Fixation of Ceiling of Lando Act 1961 (TN Act No.58/61) as the Tamil Nadu Land Reforms amended by the Tamil Nadu Land Reforms (Fixation of Ceiling of Land) Third Amendment Act, 1972 (TN Act 37/72) and was taken possession by the Government from Thiru.S.K.N.K.R.Kamalya Usilampatti Taluk, Naicker of Saptur Village.

5. It is submitted that accordingly application were called for from the eligible beneficiaries to get the assignment of surplus lands on 28.02.1973 and 37 applications were received. After conducting a detailed enquiry, assignment orders to 33 person including one Gurusamy. S/o.Lakshmana Mania. the father-in-



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law of the writ petitioner have been found to be the eligible beneficiaries and hence the assignment orders in respect of 33 eligible persons have been issued under Rule 8(4) of the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules 1965 vide proceedings of the Authorised Officer (Land Reforms) Madurai in MR IV/105(a) dated 30.09.1978 subject to certain vital conditions of assignment such as

(a) The land assigned shall not be sold or otherwise alienated before the expiry of the period of 20 years.

(b) If the land is assigned subject to the payment of value of the land and buildings and trees thereon installments.

(c) In the event of default on payment of two consecutive installments the amount already paid shall be liable to be forfeited to the Government and the land shall be liable to be resumed.

(d) The assignee shall engage himself in the direct cultivation of the land assigned.

6. It is submitted that in respect of the writ petitioner's father-in- law. Thiru.L.Gurusamy the total value of the surplus land in S.No.364/4 (3.93 Acres) was arrived at Rs.4.395/- and the said



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land value have to be paid in 20 installments. But however the assignee Thiru.L.Gurusamy has neither remitted the land value nor cultivated the assigned land and hence the deed in Form-F was not issued to him. The beneficiary LGurusamy died on 03.06.1982 and the said land was again assigned in the name of the writ petitioner Muthukrishnammal, W/o.Ramaraj who is the daughter-in-law of the deceased LGurusamy vide that proceedings of the Assistant Commissioner (Land Reforms). Madurai MR IV.No.319A/PYR/B3 dated 15.12.1997 stipulating with the usual conditions of assignment of surplus land and the petitioner was directed to remit the land value of Rs.4,395/- in 20 installments. But the writ petitioner herein has neither paid the land value nor brought the assigned land under cultivation. As the petitioner has not remitted the land value as per the conditions of the assignment, the said assignment order was lapsed and hence the deed of assignment in Form-F was not executed due to above said violations of the assignment conditions.”

8. It is respectfully submitted that the representation of the petitioner was forwarded to the Tahsildar Peraiyur to enquire into the



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eligibility of the writ petitioner afresh. The Tahsildar Peraiyur after enquiry the petitioner and after having field inspection of the subject land has reported that the writ petitioner's husband was a Government Servant and hence she obtained the surplus land assignment order in her name but she failed to remit the land value and also not cultivated the subject lands and left the land fellow and uncultivated for years together. Hence she was not issued with the deed of assignment in Form F as per Tamil Nadu Land Reforms (DSL) Rules, 1965 since one of her son namely Alagarsamy is working in the Government Transport Corporation and the another son died while he was serving in the Army.

9. It is further submitted that the Tahsildar Peraiyur vide his report in Na.Ka.No. 5599/2020/A1 dated 31.11.2021 has reported that writ petitioner and her husband sold an extent of 1.50 Acre of the assigned land to one Chinnavelsamy, S/o.Perumal Naicker of Palayur hamlet of Athipatti Village for a consideration of Rs.56,000/- and obtained Rs.32,000/- as an advance and executed an unregistered sale deed on 18.12.1997. As the purchaser Chinnavelsamy



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died his wife one Tmt.Nirmala is cultivating the said land admeasuring an extent of 1.50 acres in S.No.364/4 of Saptur Village. Besides this, one Tmt.Amutha wife of Pandi of Saptur Village, was also cultivating a portion of the subject land and she also claims ownership and represented the same during the field inspection made by the Tahsildar Peraiyur. The writ petitioner has not paid the land value and hence the regular deed of assignment in Form-F was not issued by the authorities. For the above said violations, the petitioner is not eligible to get assignment deed in Form-F and hence her request deserves no consideration and it may be rejected summarily.”

5. It is clear from the counter-affidavit filed by the second respondent that the Tahsildar, Peraiyur, had considered the request made by the petitioner and had also fixed the land value. The petitioner did not pay the land value and therefore, the regular deed of assignment in Form V was not issued. In view of the same, the very stand taken by the second respondent as if the petitioner is not eligible to get the assignment deed, is apparent from the records since the request made by the petitioner has been considered and the petitioner failed to remit the land value. Therefore, the



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petitioner was found ineligible to get the assignment deed. It is seen that the petitioner had also sold nearly 1.50 Acres of the assignment land through registered sale deed dated 18.12.1997 in favour of one Chinnavelsamy and this alienation has not even been mentioned in the affidavit filed in support of this Writ Petition.

6. In the considered view of this Court, the petitioner has already been found to be ineligible to get the subject property assigned in her name and the reasons that have been explained in the counter-affidavit is found to be reasonable which does not warrant interference of this Court. Accordingly, there are no merits in this Writ Petition and accordingly, the same stands dismissed. No costs.

10.10.2023

NCC:yes/no
Index:yes/no
Internet:yes/no
tsg



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N.ANAND VENKATESH, J.

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