



W.P.(MD)No.318 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2023

CORAM

THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

W.P.(MD)No.318 of 2015

Raju Madhari

... Petitioner

Vs.

1.The District Collector,
Dindigul District.

2.The Revenue Divisional Officer,
Dindigul District.

3.The Tahsildar,
Dindigul Taluk,
Dindigul District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records relating with the order passed by the third respondent in O.Mu.No. 31100/13/A3, dated 21.08.2013 and quash the same as it is arbitrary and illegal and in consequence direct the respondents to issue a patta to the petitioner for the property, measuring 3 Acres in S.No.1215/7 in Sirumalai Village in Dindigul District.



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For Petitioner :Mr.R.J.Karthick
For Respondents :Mr.G.Siva Raja
Government Advocate

ORDER

This writ petition has been filed challenging the order of the third respondent herein, rejecting the request of the petitioner seeking assignment of land.

2. The learned counsel for the petitioner would submit that the petitioner is in possession of Survey No.1215/7 of Sirumalai Village, Dindigul District, measuring an extent of 3 acres for more than 30 years. The third respondent by his proceedings in T.K.T.No.166/84 had called upon the petitioner to pay a sum of Rs.3,500/- for considering his request for grant of assignment and pursuant to such proceedings, the petitioner had also paid the amount demanded on 03.11.2008. On 09.07.2013, the petitioner had made a representation. Thereafter, the second respondent herein by his proceedings in O.Mu.No.4889/2013/B1 dated 17.07.2013 had directed the Tahsildar to consider the case of the petitioner. The third



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respondent by the impugned order, dated 21.08.2013, has rejected the request of the petitioner holding that there is no provision for grant of assignment in the hill areas. He would submit that the order passed by the third respondent suffers from arbitrariness, as there is no prohibition in Sirumalai hills, for grant of assignment of lands. He would also submit that when the Tahsildar by his proceedings in October 2008 had directed the petitioner to make payment to consider his case of assignment, the rejection by the present Tahsildar is *non-est*.

3. Countering his arguments, learned Government Advocate appearing on behalf of the respondents would submit that the petitioner, as a matter of right, cannot claim assignment of lands. The lands that the petitioner seeks to grant assignment, is in the Sirumalai hills, which is the hill area and various provisions of Clause 15 of the Revenue Standing Order prohibits grant of assignment to people residing outside the area.



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4. I have considered the rival submissions made by the counsel appearing on either side.

5. The petitioner is a resident of Sirumalai hills. He had been in possession of the lands for more than 30 years and on consideration of his possession, the third respondent by his proceedings in T.K.T.No.166/84 had called upon the petitioner to pay certain amount to consider his request. As per the provision of the Revenue Standing Order, particularly, Sub Clause 4.4 of Clause 15, the application for grant of assignment should be disposed of either by the Divisional Officer or the Collector.

6. In the present case, the Revenue Divisional Officer, namely, the second respondent herein has directed the third respondent to consider the request of the petitioner by the third respondent and the third respondent had rejected the request of the petitioner. The direction issued by the Revenue Divisional Officer/second respondent herein to the third respondent is nothing but delegating his powers available under the Sub Clause 4.4 of Clause 15, which in my view, itself is not sustainable and



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therefore, the third respondent does not have jurisdiction to decide the application of the petitioner. Hence, the order impugned in this writ petition passed by the third respondent is set aside. However, there shall be a direction to the second respondent to consider the request of the petitioner and pass orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order.

7. In fine, this writ petition stands allowed. The order of the third respondent dated 21.08.2013 is set aside and the second respondent is directed to consider the case of the petitioner as indicated above. There shall be no order as to costs.

21.02.2023

NCC :Yes/No
Index :Yes / No
Internet :Yes/No
SBN



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K.KUMARESH BABU, J.

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