



W.P.(MD) No.25350 of 2018.

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.01.2023

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THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

**W.P.(MD) No.25350 of 2018
and
W.M.P.(MD) No.22949 of 2018**

Karuppan

... Petitioner

/vs./

1.The District Revenue Officer,
Pudukkottai District,
Pudukkottai.

2.The Revenue Divisional Officer,
Pudukkottai,
Pudukkottai District.

3.The Revenue Tahsildar,
Thirumayam Taluk,
Pudukkottai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the 1st respondent pertaining to the impugned order in Ni.Mu.869/2017 (E2) dated 26/02/2018 and quash the same as illegal and arbitrary and consequently direct the respondents to issue separate assignment patta in the name of the petitioner's



W.P.(MD) No.25350 of 2018.

bearing in Survey No.11/5, which is situated at Vanniulanthan Village, Thirumayam Taluk, Pudukkottai District.

For Petitioner : Mr.A.D.Ganeshamoorthi
For Respondents : Mr.G.Siva Raja
Government Advocate

ORDER

The writ petition is seeking for a Certiorarified Mandamus to call for the records pertaining to the impugned order in Ni.Mu.869/2017 (E2) dated 26/02/2018 of the first respondent, quash the same as illegal and arbitrary and consequently to direct the respondents to issue separate assignment patta in the name of the petitioner bearing in S.No.11/5 at Vanniulanthan Village, Thirumayam Taluk, Pudukkottai District.

2.The case of the petitioner is that he had been issued with an order of an assignment assigning an extent of 0.72.5 hectares of land in S.No.10/3 under assignment deed 36/88. Thereafter, it is his claim that he has been in possession and enjoyment of the property. When that being so, he was served with a notice in a proceeding by the first respondent, wherein one Savarimuthu has filed a review petition before the first respondent challenging the order of refusal to grant patta



W.P.(MD) No.25350 of 2018.

WEB COPY

in his favour. In the course of the proceedings, the petitioner was also issued with a notice and that he had appeared as respondent. The first respondent by order dated 26.02.2018 made in Ni.Mu.No.869/2017/(E2) had rejected the claim of said Savarimuthu *inter alia* holding that the petitioner herein is not entitled for grant of patta. The same has been challenged in this writ petition.

3.Heard Mr.A.D.Ganeshamoorthi, learned counsel for the petitioner and Mr.G.Siva Raja, learned Government Advocate for the respondents.

4.Mr. A.D.Ganeshamoorthi, learned counsel for the petitioner would submit that the reasoning assigned by the first respondent is that the assignment made in the year 1979 had been cancelled by the second respondent as early as in the year 1991. According to him, there is no notice of hearing of the said proceedings and he would claim that such an order passed by the second respondent in the year 1991 is non-est, as the same has been passed in violation of the principles of nature justice. Hence, he would seek to set aside the order passed by the first respondent, insofar as it relates to rejection of his claim to grant patta and to



W.P.(MD) No.25350 of 2018.

consequently, direct the third respondent to grant patta in his favour, as per the deed of assignment.

5.Countering his arguments, Mr.G.Siva Raja, learned Government Advocate for the respondents would submit that the petitioner was granted with an order of assignment in the year 1979 with a condition that he should bring the land under cultivation within a period of three years and that he should not sell the land to any other person within a period of 10 years. .He would further submit that the petitioner by Doc.No.6763/1987 dated 21.01.1987 had sold the assigned land in favour of one Muthu. The said sale had taken place well within the prohibited period and therefore, a notice was issued by the second respondent herein under Registered Post, which was also served upon the petitioner. As he had not submitted any explanation, the second respondent had passed the order canceling the order of assignment by proceedings dated 05.03.1991 in Na.Ka.A6/1204/1990. He would further submit that the said order has not been challenged and had become final as against the petitioner and the petitioner now cannot seek grant of patta on the basis of the assignment in the year 1979. Hence, he would seek dismissal of the writ petition.



W.P.(MD) No.25350 of 2018.

WEB COPY

6.I have considered the rival submissions made by the learned counsels appearing on behalf of either side.

7.It is an admitted fact that the petitioner was issued with an order of assignment as early as in the year 1979. However, the petitioner disputes that he had no notice of any hearing of the proceedings initiated by the second respondent for cancellation of the assignment in his favour. He was also not served with any order that has been passed by the second respondent in the year 1991. The order of cancellation passed by the second respondent dated 05.03.1991 is still intact. The petitioner now seeks to challenge the order passed by the first respondent refusing to entertain the claim of the petitioner to grant patta, in view of the cancellation of assignment. The said rejection has been made in an appeal filed by a third party. Since the order of cancellation of the assignment is still in force, the first respondent was correct in rejecting the claim of the petitioner to grant patta and I do not find any error in the same to interfere.



W.P.(MD) No.25350 of 2018.

WEB COPY

8.In fine, the writ petition fails and is dismissed. However, the petitioner is at liberty to challenge the order of the second respondent made in Na.Ka.A6/1204/1990 dated 05.03.1991, if he so advised. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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24.01.2023

To

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WEB COPY



W.P.(MD) No.25350 of 2018.

K.KUMARESH BABU, J.

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W.P.(MD) No.25350 of 2018

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