



W.P(MD)No.27941 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.06.2023

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.27941 of 2022

Tmt.S.MP.AR.Deivanai Achi

... Petitioner

Vs.

- 1.The District Collector,
Madurai, Madurai District.
- 2.The District Revenue Officer,
Madurai District.
- 3.The Revenue Divisional Officer,
Revenue Divisional Office,
Melur, Madurai District.
- 4.The Tahsildar,
Melur Taluk,
Madurai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the second respondent to remove the wrong classification / wrong assessment of the revenue records for the property under S.F.No.86/1, situated at Kovilpatti Village, Melur Taluk, Madurai District, and consequentially direct the fourth respondent to issue patta in the name of the petitioner.



WEB COPY



W.P(MD)No.27941 of 2022

For Petitioner : Mr.K.R.Laxman
For Respondents : Mr.J.Ashok,
Additional Government Pleader
for R1 to R4

ORDER

The writ petition has been filed in the nature of a mandamus seeking a direction to the second respondent, District Revenue officer, Madurai, to remove a classification / assessment in the revenue records for the property under S.F.No.86/1 at Kovilpatti Village, Melur Taluk, Madurai District.

2. The petitioner claims that such classification and assessment were wrongly made. The petitioner also consequentially seeks patta to be issued by the fourth respondent / Tahsildar, Melur Taluk in the name of the petitioner herein. In the affidavit filed in support of the writ petition, it had been stated that the land measuring 02 acres and 52 cents at survey No.86/1B, originally were assigned to one Sorna Ammal. She also paid kist for the land. This naturally meant this assignment was for agricultural purposes. The primary condition under which it was assigned was that it should not dealt with for a period of 10 years. The assignment was, by an assignment order dated 09.02.1960 under DET No.347/69 issued by the Special Deputy Tahsildar,



W.P(MD)No.27941 of 2022

Assignment. In the year 1972, by a registered sale deed dated 13.03.1972, after the period of 10 years, Sorna Ammal sold the same to the said Meenammal and her daughter R.Uma Rani, by a registered document registered as Document No.438 of 1972 before the Sub Registrar, Melur. Thereafter, the petitioner had purchased the property by a registered sale deed dated 07.12.1983, registered again in Sub Registrar Office, Melur as document No.2959 of 1983. The patta was mutated in the name of the petitioner. The chitta was also mutated in the name of the petitioner and all other land revenue records were also mutated in the name of the petitioner.

3. It is stated that the revenue records however, were subsequently modified to reflect the lands as Government lands. The petitioner claims that no proper opportunity was also given. The stand of the Government is that the lands were subsequently identified as Panchami lands.

4. Learned counsel for the petitioner placed reliance on an order passed by a learned Single Judge of this Court dated 10.02.2020 in W.P(MD)No.3387 of 2015(S.Rajalakshmi Vs District Collector, Madurai District, Madurai), with respect to an adjacent land which had been assigned in the year 1961 to Meenakshi Sundaram which was subsequently dealt in the year 1982. The order of the learned Single Judge is as follows:



W.P(MD)No.27941 of 2022

"7.This Court carefully read the communication, dated 04.02.2020. The Tahsildar has come before this Court without reading the specific case pleaded by the petitioner in the affidavit filed in support of the petitioner. Without even perusing the records, the Tahsildar has stated that the land was classified as a panjamar land. No record was produced before this Court to show prior entries in revenue records showing the land as Panjamar land. The respondent has produced before this Court a list of properties showing that the land was reserved for assignment in favour of Adi Drawidars. No record is produced to show that this land was assigned in favour of any Adi Drawidars in terms of the Revenue standing order related to assignment of lands to depressed class. However, the assignment produced by the petitioner clearly shows that the assignment was made in 1961 by treating the assignee as a landless poor. By producing a revenue document of 1934, namely, some list of properties reserved for being allotted to Adi Dravidars, the Tahsildar cannot contend that assignment could not have been legally made in 1961. It is admitted that the assignment was made in favour of landless poor not by treating the land as panjamar land. It is admitted that no notice was issued to the petitioner any time before deleting her name from the revenue records. The respondent has acted as a land grabber and try to usurp his power arbitrarily, unbecoming of a Government servant and responsible Revenue Officer. Admittedly, no proceeding was initiated either for resumption of land nor for taking possession.



8.This Court is of the view that even resumption of land is not feasible after this length of time. Whether it is reserved as panjamar land or it is a land classified as poramboke, the land can be assigned in favour of landless poor so long as the land remains as land of Government. It is always open to the Government to assign the land even in respect of lands which was originally reserved or meant for assigning in favour of depressed class. The Government need not surrender its power of assignment as owner. So long as the Government continue to be the owner of property, it retains its power to deal with the property in the manner the Government choose.

9.In the present case, merely because the land which was assigned in favour of Meenakshi Sundaram was previously reserved for being assigned in favour of depressed class, it does not invalidate the very assignment that was done in 1961. This Court has repeatedly held that the assignment prior to 1973 cannot be cancelled or set aside for violation of conditions of assignment after a period of three years. Hence, there is no scope for even resuming the land or cancelling the assignment which was made in 1961. The Government after assigning the land is estopped from contending that the land ought not to have been assigned after 40 years. The reclassification was done without notice to the petitioner in whose name patta was also given. The revenue officials dealing with land holdings cannot alter records, affecting the civil rights of individuals without giving them proper notice and giving them opportunity of being heard. The Tahsildar has produced before this Court a list of properties in several villages and contended that the properties have been reserved



W.P(MD)No.27941 of 2022

for assignment in favour of Adi Dravidars. He wanted to mislead this Court by contending that the Central Government has passed a legislation in 1892. This Court is aware that about a century back, based on the recommendations of then District Collector, Chengalput, British Government prescribed certain conditions for allotment in the case of depressed class taking into consideration the protection the depressed class need from upper classes. That does not help the respondent to deprive the persons from his lawful holdings.

10. For all these reasons, this writ petition is allowed and the respondent Tahsildar by name Thiru.T.Sivagami Nathan is directed to pay a sum of Rs.5,000/- (Rupees five thousand only) as cost to the petitioner for driving the petitioner to approach this Court and for misleading this Court by his communication, dated 04.02.2020 without sending any record or filing a counter meeting the specific averments in the affidavit. The Tahsildar, is directed to make necessary amendments in all the revenue records as prayed for within a period of two weeks from the date of receipt of copy of the order."

5. The entire reasonings apply to the petitioner herein. The only condition under which assignment was made was that land should not be conveyed within a period of 10 years. The original assignee Sorna Ammal adhered to that particular condition. Thereafter she had every right to convey the land. She exercised that right in the year 1972. The petitioner subsequently purchased the land in the year 1983. There are no records to show as to how the Government



W.P(MD)No.27941 of 2022

has come to the conclusion that the lands are Panchami lands. The lands have been properly assigned and the lands had been dealt with in accordance with the condition granted and permission granted. The sale deed also been registered and at that time, there had been no objection that the lands are Panchami lands. The reasonings aforementioned directly apply to the petitioner herein.

6. The writ petition stands allowed. A direction is given to the second respondent to reclassify the lands and incorporate the name of the petitioner in all the revenue records. Such exercise should be completed within a period of three weeks from the date of receipt of a copy of this order. The patta should also be mutated to the name of the petitioner herein, again within a period of three weeks. No costs.

13.06.2023

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

pnn



WEB COPY



W.P(MD)No.27941 of 2022

C.V.KARTHIKEYAN, J.

pnn

To

- 1.The District Collector, Madurai, Madurai District.
- 2.The District Revenue Officer, Madurai District.
- 3.The Revenue Divisional Officer, Revenue Divisional Office,
Melur, Madurai District.
- 4.The Tahsildar, Melur Taluk, Madurai District.

W.P(MD)No.27941 of 2022

13.06.2023