



WP.No.15496 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

WP.No.15496 of 2023

Sudha

.. Petitioner

Versus

1. The Commissioner of Land Administration,
Ezhilagam, Chennai.

2. The District Revenue Officer,
Ariyalur District.

3. The Tahsildar,
Ariyalur Taluk.

4. Poiyamozhi

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the second respondent, District Revenue Officer, Ariyalur District in Na. Ka. No. A2 / 4324/2017 dated 01.03.2022 and the subsequent order of the first respondent the Commissioner of Land Administration, Chennai in Proc.No.G3/2194843/ 2022 dated 10.04.2023 and to quash the same.

For Petitioner : Mr.B.Aravindh Srevatsa
for Mr.R.S.Selvam

For Respondents : Mr.P.Sathish
Additional Government Pleader – R1 to R3
Mr.R.Jayaprakash – R4



WP.No.15496 of 2023

ORDER

WEB COPY

With the consent of both sides, this Writ Petition is taken up for final disposal at the admission stage itself.

2. This writ petition is filed to quash the impugned Order of the second respondent in Na.Ka.No.A2/4324/2017 dated 01.03.2022 and the subsequent order of the first respondent in Proc.No.G3/2194843/ 2022 dated 10.04.2023 cancelling the assignment of the petitioner.

3. Heard learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 to 3 and perused the materials available on record.

4. It is the case of the petitioner that subject property was assigned to the petitioner by an Order passed the Tahsildar dated 28.02.2006 for an extent of 0.36.5 Ares. It is the further case of the petitioner that she had married against the will of both their parents and as their marriage is an intercaste marriage, the relationship with their parents was hostile and filled with anguish. The further case of the petitioner is that they started cultivation in

Government Poromoke barren land located at Survey No.320/7, Thelur Village.



WP.No.15496 of 2023

The said land was originally rocky and mud patchy and on seeing the hard labour and improvement done by the petitioner, the Government granted land assignment for the land measuring to an extent of 0.36.5 Ares by an Order dated 28.02.2006. The petitioner was in occupation of the said land. While so, on 17.07.2017 the fourth respondent has given a complaint to the second respondent alleging that the petitioner had obtained assignment in violation of the terms of the assignment. Based on the said complaint, the second respondent cancelled the assignment granted to the petitioner on 01.03.2022 on two grounds that the petitioner has suppressed the fact of land held by her father-in-law and as per the orders of the second respondent, the petitioner is having a share in the above property. That apart, her husband was working as a teacher in a Government school. This fact has also been suppressed. On the above two grounds, the Order came to be passed. On the appeal, the first respondent has confirmed the Order of the second respondent not on the grounds raised by the District Revenue Officer, but on the ground that since the petitioner has not cultivated in the land and that apart, the petitioner is not residing in the assigned land and she is living as a joint family with her father-in-law. Challenging the same, the present Writ Petition has been filed.



WP.No.15496 of 2023

5. The respondents 1 to 3 have filed counter to the effect that since the petitioner's husband is in a well secured Government job besides the petitioner and her husband are entitled to acres of land from their parents, the petitioner is not entitled to assignment. Further, it is the stand taken by the first respondent that the Tahsildar has reported that the land is not cultivated and is lying vacant and eucalyptus trees have been grown in another part of the land. It is further stated in the counter that the said lands were recommended for land transfer to the TNCC as storage warehouse [godown] vide Collector's letter No.B1/8666/2021 dated 10.08.2022. Since the land has not been cultivated and it is in violation of the assignment, the impugned Order has been passed. Hence, prayed for dismissal of this Writ Petition.

6. Mr.B.Aravindh Srevata, learned counsel appearing for the petitioner submitted that the impugned Order is nothing but mere abuse of powers. According to the learned counsel, even before passing of the impugned Order, the land has been transferred to TNCC by an Order dated 10.08.2022. Only to take over possession, all the subsequent Orders have been passed, as though there is a complaint. It is his further contention that without any proper enquiry and merely on the basis of some complaint given by the fourth respondent, the second respondent cancelled the assignment on two grounds



WP.No.15496 of 2023

that the father-in-law of the petitioner has a property in which the petitioner also get a share and that apart, the petitioner's husband was working as a teacher, which has been suppressed. The learned counsel would submit that the husband of the petitioner has got the job only in the year 2012, after six years of assignment. Therefore, the question of suppression will not arise. As far as the property of the father-in-law of the petitioner is concerned, the petitioner has no right over the property of her father-in-law by way of succession. Such being the position, the petitioner becoming a sharer in her father-in-laws property will not arise. Therefore the Orders of the first respondent has been passed in order to support the Orders of the collector dated 10.08.2022. Whereas, the first respondent has travelled beyond the scope of the Order and passed an Order as if there is violation of condition. The very observation made by the first respondent in the counter itself indicate that eucalyptus trees are planted in the property. Hence, it is his contention that the impugned Orders have to be set aside.

7. Whereas the learned Additional Government Pleader submitted that the petitioner has not cultivated in the land and the she is having a share in the property of her father-in-law and her husband is working as a teacher in a Government School and hence, the petitioner is not entitled for assignment.



8. I have perused entire materials. The second respondent has cancelled the assignment on two grounds that the petitioner will be having a share in her father-in-law's property. Such a finding, in view of this Court, cannot be countenanced in law. Merely because the petitioner's father-in-law is holding some property in a different village, the same will not be the property of the petitioner. The second ground on which the assignment was cancelled is that the petitioner's husband is working as a teacher in the Government school at the time of assignment. This is also untrue for the reason that the petitioner's husband got the teacher job only in the year 2012. These aspects have not been noticed by the authorities. They have casually passed the impugned Order merely on the basis of some complaint given by the fourth respondent.

9. It is relevant to note that, even before taking action to cancel the assignment, by an Order dated 10.08.2022 itself, the authorities have decided to transfer the land to some other department and have initiated such an action and thereafter, the complaint and impugned Orders came to be passed. This itself indicate that the impugned Orders have been passed only in order to convert the property to some other property for a project, all the subsequent actions have been initiated.



WP.No.15496 of 2023

10. The first respondent, instead of going to the validity of the Order passed by the second respondent, he has travelled beyond scope of the Order and he has come to the conclusion that the land has not been cultivated. It is relevant to note that Revenue Standing Order 15[4] makes it clear that the assignee besides cultivation has to plant trees in the lands assigned. The observations in the impugned Order itself indicate that eucalyptus trees have been planted and the trees have been reared by the petitioner. These facts have been introduced only in the counter. Therefore, the authorities cannot improve their stand contrary to the provisions of law. In such view of the matter, the impugned Order cannot be sustained in the eye of law.

11. Accordingly, this Writ Petition is allowed and the impugned Order of the second respondent dated 01.03.2022 and the subsequent Order of the first respondent dated 10.04.2023 are quashed. No costs. Consequently, connected miscellaneous petitions are closed.

19.06.2024

vrc

Index	:Yes/No
Internet	:Yes/No
Neutral Citation	: Yes/No



WP.No.15496 of 2023

To,
WEB COPY

1. The Commissioner of Land Administration,
Ezhilagam, Chennai.
2. The District Revenue Officer,
Ariyalur District.
3. The Tahsildar,
Ariyalur Taluk.



WEB COPY



WP.No.15496 of 2023

N. SATHISH KUMAR, J.

VRC

W.P.No.15496 of 2023

19.06.2024