



W.P.No.12414 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. No.12414 of 2014

and

W.M.P.No.18989 of 2017

1.T.M.A.Liakath Ali Khan (deceased)

2.Nabisath Begam

3.L.Mohammed Uzama

4.L.Sumaya Begam

... Petitioners

[P2 to P4 are substituted as legal heirs of the deceased first petitioner, namely, T.M.A. Liakath Ali Khan, vide order dated 10.11.2023 in WMP.No.32055 of 2023]

Versus

1.The State Government of Tamil Nadu

rep.by the Secretary,

Saint George Fort,

Chennai – 600 005.

2.The Principal Secretary,

and Commissioner of Revenue Administration,

and Commissioner of Land Administration,

Chepauk, Chennai – 5.



W.P.No.12414 of 2014

3.The District Collector,
Sivagangai District,
Sivagangai.

4.The Tahsildar,
Ilaiyankudi Taluk,
Sivagangai District,
Sivagangai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to quash the impugned order R.C.G2/262210/2006, dated 17.05.2013 issued by the second respondent and to call for the records pertaining to the impugned order and thereby consequently, directing the respondent barring Survey No.193 Sub-Division 12 having an extend of 4.80 acre situated at Kizhaiyur Village, Circle No.15, Ilaiyankudi Post, Sivagangai District.

For Petitioners : Dr. R. Natarajan
for Mr. Dalit Tiger C. Ponnusamy

For Respondents : Mrs. V. Yamunadevi
Special Government Pleader

ORDER

This writ petition has been filed challenging the order dated 17.05.2013 passed in R.C.G2/262210/2006, issued by the second respondent and to call for the records pertaining to the impugned order in



W.P.No.12414 of 2014

WEB COPY

respect of Survey No.193 Sub-Division 12, having an extent of 4.80 acre, situated at Kizhaiyur Village, Circle No.15, Ilaiyankudi Post, Sivagangai District.

2. The claim of the petitioner is that the above said land was owned by the petitioner's father and Patta was also issued by the Deputy Tahsildar, Ilaiyankudi, on 30.07.1986. From the date of assignment, the petitioner is in possession and enjoyment of the property, for which, he is also paying the “Kists” till date. Subsequently, the second respondent passed the impugned order dated 17.05.2013, stating that the said land as “Assessed Waste Dry”, and cancelled the Patta issued in favour of the petitioner. According to the petitioner, the said land is an agricultural land and they are cultivating seasonal crops from the date of assignment. Hence, the Writ Petition.

3. The learned counsel for the petitioner submitted that the Government has assigned the land to the petitioner on 30.07.1986 for cultivation purpose and after the assignment, the petitioner has been continuously cultivating the land and he has not violated the conditions



W.P.No.12414 of 2014

WEB COPY

stipulated in the assignment and also paid the “Kists” and the Land Revenue Tax for a sum of Rs.6,000/- as the market value for the said land.

Without considering the same, the second respondent cancelled the assignment on 15.05.2006 and even subsequent to the cancellation of order, dated 15.05.2006, the Tashildar, Sivganagai District, had given “No Objection Certificate” for the land in question, stating that the petitioner has been cultivating and there is no objection to register any document. It is evident that the petitioner has been in possession of the property from the date of assignment to till date.

4. Further, the learned counsel for the petitioner submitted that without considering the above said facts, the second respondent had passed the impugned order dated 17.05.2013. Even prior to the passing of the impugned order, the respondents had not given any opportunity to the petitioner, and arbitrarily cancelled the Patta. Therefore, the petitioner filed a Writ Petition in W.P.No.8497 of 2006 before this Court and the same was allowed on 22.11.2010 and thereafter, the respondents conducted enquiry. Even though they conducted enquiry, they have not considered the petitioner's request, but, simply upheld the cancellation of



W.P.No.12414 of 2014

the assignment without any materials.

WEB COPY

5. In addition, the learned counsel for the petitioner submitted that, till now, the petitioners are in possession of the property and also paying the land tax. They are cultivating seasonal crops in the said land. It is duty of the Village Administrative Officer to conduct a field inspection and make entries in the Adangal Register periodically. But, they have not done so, because of the dereliction of duty on the part of the Village Administrative Officer. Therefore, the impugned order is liable to be set aside and the writ petition may be allowed.

6. The learned Special Government Pleader appearing for the respondents submitted that the subject land was assigned to the petitioner as a conditional assignment and the assignment was not supported by any consideration and also with a condition to the petitioner has to cultivate the land within a period of three years from the date of assignment. Even after also the petitioner has to continuously cultivate the land, and if the petitioner has not done so for more than three years, then, the assignment would be cancelled. Therefore, as the petitioner has not cultivated the



W.P.No.12414 of 2014

WEB COPY

land in question, and he violated the conditional assignment, the assignment is liable to be cancelled.

7. Further, the learned Special Government Pleader has submitted that though the petitioner had earlier filed a Writ Petition, this Court had given a direction to give notice to the petitioner and conduct enquiry and pass orders in accordance with the law and on merits. Subsequently, notice was served on the petitioner, and after giving notice, every opportunity of hearing was given to the petitioner, and the enquiry was also conducted and thereafter, the second respondent passed the said impugned order dated 17.05.2013. Though the assignment is a conditional assignment, the petitioner has not complied with the said condition as stipulated period prescribed in the assignment order. Therefore, subsequently on conducting enquiry in respect of the said land, and the assignment was cancelled. Therefore, the writ petition may be dismissed.

8. Heard the learned counsel for the petitioners and the learned Special Government Pleader appearing for the respondents and perused the materials available on record.



W.P.No.12414 of 2014

WEB COPY

9. The matter was called today for production of Adangal Register to clarify the annual cultivation of agricultural crops cultivating in the said land. As directed by this Court on 11.01.2024, the said Adangal Registrar is produced before this Court. It shows that the land remains as “Tharisu”, and therefore, it is clear from the evident that the petitioner has not cultivated any crop in the said land, but, at the same time, he is paying the Land Tax from the date of assignment to till date. Though the Revenue Authorities are receiving the land tax, there is no iota of evidence to show that there has been cultivation in the land from the date of assignment till today. Since the petitioner has not proved that there was cultivation from the date of assignment and till the date of cancellation, I find no error in the impugned order passed by the second respondent and the Writ Petition is liable to be dismissed.

10. Any how, the learned counsel for the petitioner relied upon the Judgment of the Madurai Bench of this Court in *W.P(MD).No.9335 of 2013, dated 03.08.2022 in K.S.Jarina Vs. The Commissioner of Land Administration and 2 Ors.*, and the facts and circumstances of the said



W.P.No.12414 of 2014

WEB COPY

case are entirely different and it is not applicable to the facts of the present case on hand. Here, the factual aspects have to be established by the petitioner from the date of assignment till the date of cancellation. The petitioner has not proved that he has been cultivating the said land, and therefore, in the absence of the same, this Court does not find any perversity or illegality or any infirmity in the impugned order passed by the second respondent and the same is hereby confirmed.

11. With the above observations, the Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is also closed.

23.01.2024

Index : yes/no
Speaking order : yes/no
Neutral Case Citation : yes/no

klt



W.P.No.12414 of 2014

WEB COPY To:

- 1.The Secretary,
State Government of Tamil Nadu
Saint George Fort,
Chennai – 600 005.
- 2.The Principal Secretary,
and Commissioner of Revenue Administration,
and Commissioner of Land Administration,
Chepauk, Chennai – 5.
- 3.The District Collector,
Sivagangai District,
Sivagangai.
- 4.The Tahsildar,
Ilaiyankudi Taluk,
Sivagangai District,
Sivagangai.



WEB COPY



W.P.No.12414 of 2014

P. VELMURUGAN, J.

klt

W.P. No.12414 of 2014
and
W.M.P.No.18989 of 2017

23.01.2024