



W.P.No.19043 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2024

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.19043 of 2018
and W.M.P.No.22434 of 2018

Manimegalai

...

Petitioner

Vs.

- 1.The District Revenue Officer,
Perambalur District,
Perambalur.
- 2.The Revenue Divisional Officer,
Perambalur Division,
Perambalur.
- 3.The Tahsildar,
Alathur Taluk,
Perambalur District.

... Respondents

Prayer: Writ Petition has been filed under Article 226 of Constitution of India to issue a Writ of Certiorari calling for records pertaining to the orders of the first respondent in Na.Ka.Aa1/14247/2010 dated 15.06.2018 relating to cancellation of assignment in respect of the land in SF.No.299/4 measuring an extent of 0.41.5 Hectares at Kottarai Village, Alathur Taluk, Perambalur District and quash the same.

For Petitioner : Mr.S.Kamadevan



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For Respondents 1 to 3 : M/s.R.L.Kathika,
Government Advocate

ORDER

This writ petition has been filed by the petitioner to call for the records pertaining to the orders of the first respondent in Na.Ka.Aa1/14247/2010 dated 15.06.2018 relating to cancellation of assignment in respect of the land in SF.No.299/4 measuring an extent of 0.41.5 Hectares at Kottarai Village, Alathur Taluk, Perambalur District and quash the same.

2. Learned Counsel for the Petitioner submitted that the petitioner was in possession of Government poramboke land in SF.No.299, Kottarai Village, Alathur Taluk (previously Kunnam Taluk) and Perambalur District and doing agriculture operations. In 2006, a scheme by name “Special Scheme for Assignment to the Landless Agricultural Poor” (for brevity Scheme) was introduced. The respondents 1 to 3 were entrusted with the task of selecting the beneficiaries under the scheme and the 3rd respondent was empowered to make assignments to the beneficiaries in the name of His Excellency the Governor of Tamilnadu. Thus, the Petitioner was assigned an extent of 0.41.5 hectares (1.02 acres) of land through the assignment order dated 09.12.2006.



The order of assignment stipulates various conditions and if there is any violation or breach of conditions, the same will lead to cancellation. After the assignment, the Patta was also issued in favour of the petitioner by the 3rd respondent in Patta No.1508, conferring the absolute right and title over the land in question.

2.1. Learned counsel for the petitioner would further submit that one Rajamanickam, who was the President of the Kottarai village Panchayat, having previous enmity with her family, he had openly challenged the assignment made in favour of the petitioner. Under the instigation of the Panchayat President, the 3rd respondent came to the Petitioner's land on 11.06.2008 and gave oral warning and threatened that there should be no cultivation in the said land as the same is a Government land.

2.2. Learned counsel for the petitioner would further submit that since the said land is assigned under a special scheme, the third respondent has no authority to restrain the petitioner from enjoying the land and also from doing cultivation. Hence, the petitioner filed a writ petition in W.P.No.18112 of 2008, before this court seeking mandamus against the respondents that they



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should not interfere with her right to enjoyment without following the due process of law and the same was closed on 29.07.2008 by recording the submission of the Government Pleader that no proceedings will be taken for cancellation of patta, without following due process of law. Thereafter, a notice dated 18.09.2008 was issued by the 2nd respondent stating that the land assigned in favour of the petitioner was required for laying public road. Challenging the said notice, the Petitioner has filed another writ petition in W.P.No 25336 of 2008, before this Court and the same was disposed on 19.12.2008, directing the second respondent to consider the explanation submitted by the petitioner. It is significant to state that this Court has specifically held that the land assigned to the petitioner could be cancelled, only if it is found that the petitioner has violated any of the conditions stipulated therein. Further, it was also held that if the land is required for a public purpose, the authorities could initiate action under the Land Acquisition Act and not otherwise.

2.3. Learned counsel for the petitioner would further submit that the then Panchayat President again started to interfere with the peaceful possession of the petitioner's land by laying roads and removing trees. Hence,



the petitioner made a representation on 09.02.2010 to the first respondent and the Superintendent of Police, Perambalur to take action against the Panchayat President. But the respondents did not take any action. Hence, the petitioner has filed another writ petition in W.P.No.3071 of 2010 seeking direction, forbearing the Panchayat President or his men from interfering, with the peaceful possession and enjoyment of the land. But this Court declined to grant the relief except giving liberty to the petitioner to make a complaint before the Superintendent of Police or to approach the civil court seeking appropriate relief.

2.4. Learned counsel for the petitioner would further submit that thereafter, the Petitioner made a complaint before the Superintendent of Police and the Panchayat President was summoned and warned by the police. Thereafter, the 2nd respondent issued a show cause notice dated 25.06.2010 stating that the Petitioner's father-in-law was in possession of lands in S.No.219/10 and 955/6 etc. and thereby at the time of making assignment, her husband was having a share in his father's property. Further, it was alleged that the petitioner had not brought the land in question for cultivation after the assignment. Hence, there was a violation of conditions of assignment. On



receipt of the said notice, the petitioner submitted a detailed explanation dated 08.07.2010 to the 2nd respondent about her family background and requested to drop further action. Thereafter, the 1st respondent passed an order dated 07.01.2011, cancelling the assignment dated 09.12.2006. Challenging the said order, the petitioner has filed W.P.No.1951 of 2011 and this court allowed and remanded the matter back to the first respondent on 23.02.2018 with a direction to hold fresh enquiry and to pass order afresh. Pursuant to this, the first respondent passed an order dated 15.06.2018 in Na.Ka.Aa1/14247/2010, confirming the earlier order, which is being challenged in this Writ Petition.

3. Learned Government Advocate appearing for the respondents submitted that the petitioner has given an Assignment through 'D' Namuna order in Ne.Mu.1283/1416 dated 09.12.2006 by the then Tahsildhar, Kunnam Taluk to an extent of 0.41.5 Hectares comprised in S.No.299/4 of Kottarai Village under “Special Scheme for Assignment of Land to Landless Agricultural Poor Families-2006”. Based on the same, entries were also made in the Revenue Records pertaining to the Kottarai Village incorporating the name of the petitioner/Assignee.



4. Learned Government Advocate appearing for the respondents further submitted that the President, Kottarai Village Panchayat has submitted a petition on 08.02.2010 before the first respondent stating that the petitioner has obtained an assignment from the Government in a fraudulent way by suppressing the fact of land owned by her family members and hence, requested that the assignment order issued to her has to be cancelled. Pursuant to the same, enquiry has been conducted and it came to the knowledge of Revenue Department that on the date of above assignment to the petitioner i.e., on 09.12.2006, the petitioner's husband, her brother-in-law and Father-in-law owned an extent of 12.12.5 Hec land in Kottarai Village. In the above total extent, the petitioner's husband is entitled to 1/6th share to an extent of 2.02.5 Hec Punjai Lands. However, suppressing this fact that her husband has owned a share of land, the petitioner has obtained the Assignment under “Special Scheme for Assignment of Land to Landless Agricultural Poor Families-2006”.

5. Learned Government Advocate appearing for the respondents would further submit that as per Revenue Department Standing Orders No.15(18),



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the Assignment already given to the petitioner to an extent of 0.41.5 Hec comprised in S.No.299/4 of Kottarai Village through kunnam Taluk office, 'D' Namuna No.1213/1416 dated 09.12.2006 was cancelled by the first respondent through Proceedings Rc.No.Na.Ka.A2/14247/2010 dated 07.01.2011. Furthermore, it was also ordered by the Collector that the land comprised in Kottarai Village in S.No.299/4 to an extent of 0.41.5 Hec. may be given suitable mutation in the Village Accounts as “Punjai Tharisu Assessed to Tax”.

6. Learned Government Advocate appearing for the respondents would further submit that challenging the aforesaid order, the petitioner has filed W.P.No.1297 of 2011 and this Court vide its order dated 23.02.2018 directed the first respondent to conduct an enquiry afresh by calling for explanation from the petitioner and also given an opportunity of personal hearing and pass considered order on merits and in accordance with law. Pursuant to the order of this Court, the first respondent conducted an enquiry on 30.04.2018 and the petitioner has also attended the same along with her advocate. During the enquiry, the petitioner deposed that the then President of the Kottarai Village Panchayat has been causing disturbance to her possession and enjoyment and



her father-in-law has also filed a suit in O.S.No.152 of 2014 before the District Munsif Court, Perambalur in respect of the family property. On that score, the petitioner has submitted that at the time of grant of patta neither herself nor husband has owned any property and hence, the cancellation of the patta has to be set-aside. Furthermore, the petitioner would contend that if the assigned lands are taken for the construction of Ayacut Tank, she has to be compensated for the same.

7. Learned Government Advocate appearing for the respondents would further contend that the V.A.O.Kottarai Village has also appeared before the first respondent and deposed that on the date of assignment i.e., 09.12.2006, the husband of the petitioner seems to have a share of 1/7 to an extent of Hec.1.73.64 Ares in his family properties and in respect of the same, a Civil Suit was also pending. The petitioner's husband has also gifted away a portion in his share to this petitioner and patta transfer also taken place in her name. From out of the same, some extent has been acquired for Kottarai Dam and now, the petitioner along with his brother-in-law is having an extent of 0.31.0 Ares. The V.A.O. would further state that the earlier assignment dated 09.12.2006 issued to the petitioner has been cancelled on 07.01.2011 and in the Village Accounts the same has been entered as assessed "Punjai Tharisu".



However, this portion of land is not in possession and enjoyment of anybody and in the same, there are Seemai Karuvelam Trees and also the said land is comprised in the catchment area of Kottarai Dam.

8. Learned Government Advocate appearing for the respondents would further submit that on enquiring the petitioner as well as the concerned V.A.O and also obtaining a report from the Revenue Divisional Officer, Perambalur, the first respondent has held that the petitioner has not cultivated the assigned land as per Revenue Standing Order No.15(12). Hence, the first respondent passed an impugned order in Rc.No.A1/14247/2010 dated 15.06.2018, confirmed the proceedings of the first respondent office made in Rc.A1/14247/2010 dated 07.01.2011 and dismissed the request of the petitioner. Furthermore, the petitioner was advised to approach the Hon'ble Jurisdictional Civil Court within 30 days, if she is aggrieved against the impugned order.

9. Learned Government Advocate appearing for the respondents has filed a counter affidavit dated 08.11.2018. For better appreciation, the relevant portion of the counter affidavit is extracted hereunder:



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“12. It is submitted that in the subject matter as directed by the Hon'ble High Court and on enquiring the petitioner as well as the concerned V.A.O. And also obtaining a Report from the Revenue Divisional Officer, Perambalur, the first respondent herein has come to the conclusion that the petitioner by suppressing the factum of the family properties owned by her husband has obtained the assignment contrary to the Rules. Furthermore, the first respondent held that the petitioner has not cultivated in the assigned land as per Revenue Standing order No.15(12). Hence the first respondent herein by Impugned Order in Rc.No.A1/14247/2010 dated 15.06.2018 has confirmed the proceedings of the first respondent office made in Rc.No.A1/14247/2010 dated 07.01.2011 and dismissed the request of the petitioner. Hence the contra allegations attributed as against the Impugned order in Para 9 of the Affidavit are all denied as false and frivolous in each and every particular.

13.(B) It is submitted that the allegations as found in this Ground are all mere conjunctures and surmises. A condition precedent for grant of Assignment under "Special Scheme for assignment of Land to Landless Agricultural Poor Families-2006" is the beneficiary should not own any Land and should also be from a poor family. However in the instant case during Enquiry by the Revenue officials it was found that the family members of the Petitioner, namely her husband, her brother-in-law and her father-in-law owned an extent of 12.12.0Hec. Land at the time of Assignment. In this total extent the Petitioner's husband is entitled to 1/6th Share to an extent of 2.02.5 Hec. Furthermore during Enquiry it was also found that the



Petitioner has not undertaken any cultivation in the assigned land in utter and clear violation of the conditions of the Assignment Order.

10. Additional Counter Affidavit was also filed by the first respondent on 01.07.2024 and the relevant portion of the same is extracted hereunder :

"6. Hence it is submitted that as per Revenue Standing Orders No.15(12), the Assignment already given to the Petitioner to an extent of 0.41.5Hec. comprised in Survey No.299/4 of Kottarai Village through Kunnam Taluk Office, 'D' Namuna No.1213/1416 dt.09.12.2006 was cancelled by the 1st Respondent through Proceedings Rc. No.Na.Ka.A2/14247/2010 dt.07.01.2011. Furthermore status-quo was restored in respect of the lands, in the Village Accounts as "Punjai Tharaisu Assessed to Tax". After that the lands were as per Revenue Standing Orders No.21(A), land transfer to Public Works Department, by the Proceedings of the 1st Respondent in Rc.No.C1/13220/2016 dt.10.12.2020 for Maruthaiyaru Irrigation Scheme.

7. At this juncture it is submitted that out of the Hec.8.06.00Ares lands owned by the Father-in-law of the Petitioner under Patta No.341 as stated above, an extent of Hec.7.01.50, were acquired by the Public Works Department, for the above Maruthaiyaru Irrigation Scheme and in this regard the family members of the Petitioner have been awarded a compensation amount of Rs.1,44,84,691/-date on 12.09.2023. The above said acquired land share for Hec.1.32.225 squire meter the petitioner's husband his received the compensation



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*amount Rs. 27,30,391/ vide Cheque number 812671, dated:
12.09.2023. on the date of assignment the petitioner family is
Wealthy Pattatarar.*

11. Heard the learned counsel on either side and perused the materials available on record.

12. The main contention of the petitioner is that at the time of assignment of land to the petitioner on 09.12.2006 under the “Special Scheme for Assignment of Land to Landless Agricultural Poor Families – 2006”, there was no land in the name of the petitioner. The respondents contention is that as on the date of above assignment to the petitioner i.e., on 09.12.2006, her husband, brother-in-law and father-in-law owned an extent of 12.5 Hec in Kottarai Village and in the above total extent, the petitioner's husband entitled to an extent of 1/6th share i.e., to an extent of 2.02.5 Hec. Punjai Lands. Suppressing this fact, the petitioner has obtained the Assignment. Hence, the petitioner is not entitled for any assignment of land under the “Special Scheme for Assignment of landless agricultural poor family-2006”. Subsequently, the petitioner has not undertaken any cultivation for the past three fasalies in the assigned land as per the Revenue Standing Order (15)(12)



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and it is the violation of the conditions 1 and 5 of the 'D'Namuna.

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13. Therefore, the assignment order was cancelled by the first respondent on 07.01.2011 and the said assignment land was registered in the village accounts “as Punjai Tharisu Assessed to Tax”. After that the lands were transferred to Public Works Department, by the Proceedings of the first respondent in Rc.No.C1/13220/2016 dated 10.12.2020 for Maruthaiyaru Irrigation Scheme and the petitioner's family was awarded a compensation amount of Rs.1,44,84,691/- and the petitioner's husband has received a compensation of Rs.27,30,391/- as his share vide Cheque Number 812671 dated 12.09.2023.

14. On the perusal of records, it is clear and evident that as on the date of the assignment of land to the petitioner i.e., 09.12.2006, there was no land owned by the petitioner or her husband, and the same is owned by the petitioner's family ie., her brother-in-law and father-in-law. Hence, the petitioner is entitled for compensation to the land, which was originally assigned to her on 09.12.2006.



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15. According to the learned Government Advocate appearing for the respondents, the compensation amount for the said land is a sum of Rs.6,22,000/- (Rupees Six Lakhs Twenty Two Thousand only) as on the date of transferring the land to P.W.D for Maruthaiyaru Irrigation Scheme on 10.12.2020.

16. At the time of hearing this matter, learned counsel for the petitioner has fairly submitted that the petitioner is not claiming any interest for the aforesaid sum of Rs.6,22,000/- (Rupees Six Lakhs Twenty Two Thousand only) which has been fixed by the second respondent as compensation.

17. Taking into consideration of the factual aspect of this case and the submission made by the learned counsel on either side, this Court directs the first respondent to pay a sum of Rs.6,22,000/- towards compensation for the land to an extent of 0.41.5 Hectares (1.02 acres), which was originally assigned to the petitioner on 09.12.2006, within a period of two months from the date of receipt of a copy of the order.



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18. This writ petition is allowed with the aforesaid observation and direction. No costs. Consequently, connected miscellaneous petition is also closed.

23.07.2024

vm

Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

J.SATHYA NARAYANA PRASAD,J.

vm

To:

1.The District Revenue Officer,
Perambalur District,
Perambalur.

2.The Revenue Divisional Officer,
Perambalur Division,
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3.The Tahsildar,
Alathur Taluk,
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