



W.P(MD)No.2151 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.07.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.2151 of 2024

and

W.M.P.(MD)Nos.2148 and 2151 of 2024

V.Raju

... Petitioner

Vs.

1.The Secretary to the Government,
Revenue Department, Secretariat,
St.George Fort, Chennai 600 009.

2.The District Collector,
Madurai District
Madurai.

3.The Revenue Divisional Officer,
Collector Office Road,
Madurai.

4.The Tahsildar,
Madurai North,
Madurai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for records pertaining to the impugned order passed by the 3rd respondent bearing Mu.Mu.No.

<https://www.mhc.tn.gov.in/judis>



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5035/2023/H dated 08.01.2024 and quash the same as illegal and consequently direct the 4th respondent to restore the Patta in favour of the petitioner for the land comprised in survey Nos.153/8 and 153/12 having extent of 0.40.0 Hectare and 0.16.50 Hectare respectively Siruvalai Village, Madurai North Taluk, Madurai District within a time stipulated by this Court.

For Petitioner : Mr.C.Bala Subramaniam

For Respondents : Mr.K.Balasubramani,
Spl. Government Pleader.

ORDER

Heard both sides.

2.The writ petitioner is a retired army man. He had taken part in India – Chinna war as well as 1971, India – Pakistan war. He questions the impugned order dated 08.01.2024 passed by the Revenue Divisional Officer, Madurai cancelling the earlier assignment order dated 28.07.2021 passed by the Tahsildar, Madurai North Taluk.

3.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant relief as prayed. His primary contention is that the petitioner had paid the cost for assignment and it was not a case of free assignment. He also would state that the impugned proceedings was not preceded



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by any notice.

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4.The learned Special Government Pleader submitted that the impugned order is well reasoned and that interference is not warranted. He called upon this Court to dismiss the writ petition.

5.I carefully considered the rival contentions and went through the materials on record. It is beyond dispute that the impugned order was passed without issuing notice to the petitioner herein. There is clear violation of principles of natural justice. The question that calls for consideration is whether on this ground, I should set aside the impugned order. If I do so, the result will be the restoration of the earlier order dated 28.07.2021 passed by the Tahsildar, Madurai North Taluk. The learned Special Government Pleader has satisfied me by citing G.O.(Ms)No.248, Revenue Department dated 28.07.2009 that the revised monitory limit of a Tahsildar for the purpose of assignment was upto Rs.10,000/-. In this case, admittedly, the land cost during the relevant time was Rs.79,800/-. Therefore, the land in question was beyond the assignment power of the jurisdictional Tahsildar. The Tahsildar could not have passed the order dated 28.07.2021. It was illegal and beyond his powers. Any order passed by the Writ Court cannot lead to revival of an illegal order. It is for this reason, I am not able to set aside the impugned order dated 08.01.2024 on the ground violation of principles of natural justice.



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6. At the same time, the equities obtaining in this case cannot be lost sight of. The petitioner is aged about 84 years. He had taken part in two wars. His track record appears to be meritorious. He appears to be in possession of the land on payment of penalty. He had also paid a sum of Rs.79,800/- towards land cost. Photographs have been produced before me indicating that as on date, the petitioner is engaged in cultivation. Since the assignment order though illegal was passed on 28.07.2021, inasmuch as the impugned order was passed without notice and since the petitioner had already remitted the land cost, till the issue is decided by the (*) **District Collector, Madurai**, the petitioner's possession need not be disturbed. The petitioner is directed to submit a fresh application for assignment before the (*) **District Collector, Madurai**. If the petitioner fails to submit such an application within ten days from the date of receipt of a copy of this order, the benefit of this order will be vacated automatically. (*) **The District Collector, Madurai** shall dispose of the petitioner's application on merits and in accordance with law within a period of four months. For the next 100 days, the petitioner's possession shall not be disturbed. The petitioner's right will abide by the outcome of the order to be passed by the (

Sd/-

Assistant Registrar(CS II)



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. I make it abundantly clear that I have not gone into the merits of the matter. I leave the issue to the discretion of the **(*)District Collector, Madurai.**

7.The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (RTI)

(*)Corrected as per the order of this Court dated 21.08.2024.

Sd/-

Assistant Registrar (RTI)

// True Copy //

/07/2024

Sub Assistant Registrar
(CS-I , II , III, IV)

ias

To be substituted to the order already despatched on 13/08/2024.

To:-

1.The Secretary to the Government,
Revenue Department, Secretariat,
St.George Fort,
Chennai 600 009.

2.The District Collector,
Madurai District,
Madurai.

3.The Revenue Divisional Officer,
Collector Office Road,

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Madurai.
4.The Tahsildar,
Madurai North,
Madurai.

+1 CC to M/s.C.BALA SUBRAMANIAM, Advocate (SR-31000[F] dated 01/07/2024)

+1 CC to M/s.SPL.GP (SR-31833[F] dated 03/07/2024)

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01.07.2024**

SL(19.07.2024)/ 6P/ 7C

BV(23/09/2024) 6P/ 7C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.