



W.P.(MD) No.21865 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.09.2024

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

W.P.(MD) No.21865 of 2018

and

W.M.P.(MD) Nos.19799 and 19800 of 2018

P.Viyapuri (died)

1.Indhirani

2.Vimala

3.Padmanaban

4.Kalaiselvi

*(P1 to P4 have been impleaded
vide order dated 05.09.2024)*

... Petitioners

/vs./

1.The District Collector,
Collectorate Campus,
Trichy, Trichy District.

2.The District Revenue Officer,
Trichy, Trichy District.



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3.The Revenue Divisional Officer,
Musiri Taluk,
Musiri,
Trichy District.

4.The Tahsildar,
Taluk Office,
Trichy District.

5.The Superintendent of Police,
Trichy, Trichy District.

6.The Inspector of Police,
Musiri Police Station,
Musiri.

7.Paraman

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned proceedings issued by the 1st respondent in Mu.Mu.A2 / 90731 / 2005 dated 02/11/2015 and quash the same and consequently direct the respondents 1 to 4 to transfer the order of assignment dated 30/06/1970 issued in R.Dis.Dar 9 / 80 / 30.6.70 in the name of petitioner which was originally stands in the name of petitioner's father Ponnarasu relating to the property measuring of an extent of 1.16 acre in survey No.709/7 situate at Attalapatti Village, M.Pudhupatti Mazra, Musiri Taluk, Trichy District.

For Petitioners : Mr.R.Thangapandian



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For R1 to R6 : Mr.D.S.Nedunchezian
Government Advocate

ORDER

The above writ petition has been filed for the following relief:-

"Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned proceedings issued by the 1st respondent in Mu.Mu.A2 / 90731 / 2005 dated 02/11/2015 and quash the same and consequently direct the respondents 1 to 4 to transfer the order of assignment dated 30/06/1970 issued in R.Dis.Dar 9 / 80 / 30.6.70 in the name of petitioner which was originally stands in the name of petitioner's father Ponnarasu relating to the property measuring of an extent of 1.16 acre in survey No.709/7 situate at Attalapatti Village, M.Pudhupatti Mazra, Musiri Taluk, Trichy District."

2. During the pendency of the writ petition, the petitioner died and therefore, his legal representatives were impleaded vide order of this Court dated 05.09.024 as petitioners 1 to 4. The case of the deceased petitioner is that the aforesaid land was assigned to his father, Ponnarasu by the order of the Special



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Tahsildar, Musiri on 30.06.1970. His father had been cultivating the said lands till his death and thereafter, the petitioner's sisters had been cultivating the land.

3. Meanwhile, one Kandasamy had filed a suit O.S.No.271 of 1984 before the District Munsif Court, Musiri, for permanent injunction against the petitioner, one Paraman and one Veerammal on the ground that the land was allotted to him and he is in possession and enjoyment of the same. After contest, the suit was dismissed by judgment and decree dated 25.04.1990. Challenging the same, Kandasamy had preferred an appeal in A.S.No.241 of 1990 on the file of the District Court, Trichy, which also ended in dismissal. The suit was dismissed on the ground that the land in question had been allotted to the petitioner's father, Ponnarasu under the Quota of Adi Dravidar Community and that the lands after the death of the petitioner's father was being cultivated by his sister. The petitioner at that point in time was employed with the State Bank of India and after his retirement, he had started taking care of the land.

4. The petitioner would submit that his sister died and only the petitioner is the remaining member of the family, who is entitled to the land being assigned to



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him. The petitioner would submit that originally his sister had made representations on 29.09.2003 and 22.03.2004 to the first respondent requesting the assignment of the land in their favour. This was not considered. Thereafter, the petitioner had filed W.P.(MD) No.4008 of 2009 seeking to confirm the allotment order in favour of the petitioner's family.

5. This Court by order dated 27.02.2015 had directed the first respondent to consider the representation within a period of 8 weeks. After conducting the enquiry, by proceedings dated 02.11.2015, the first respondent had refused to confirm the assignment order in the name of the petitioner stating that the subject property is situate near Musiri Town Panchayat and that apart, the petitioner was working in the State Bank of India has not been cultivating the same. Challenging the same, the petitioner is before this Court.

6. Heard the learned counsel on either side.

7. The ground, based on which the impugned order had been passed stating that the land is situate near Musiri Municipality and therefore, the cost of land is



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very high, is not a ground to refuse the assignment. The other ground that the parties have not been cultivated has been denied by the petitioner. He had stated that after the life time of his father, his sisters were cultivating the land and in fact, the representation to issue patta has also been made by his sisters and condition No.14 of the assignment deed provides as follows:-

"14. அடைமானம் பெற்றவரும் அவரது வாரிசுகளும் தாங்களே நேரிடையாக அடமான நிலத்தை சாகுபடி செய்ய வேண்டும்."

8. The Writ Petition stands allowed, accordingly. The impugned order passed by the first respondent in Mu.Mu.A2/90731/2005 dated 02/11/2015 is set aside and the matter is remitted back to the first respondent for fresh consideration. The respondents are directed to hold an enquiry afresh. If the petitioners are able to show proof of cultivation, then the assignment shall be extended to them. In case there is any violation, it is open to the respondents to cancel the assignment after following due process of law. The aforesaid exercise shall be completed within a period of 3 months from the date of receipt of a copy of this order.



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No costs. Consequently, connected Miscellaneous Petitions are closed.

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

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To

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Trichy, Trichy District.
- 2.The District Revenue Officer,
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- 4.The Tahsildar,
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P.T.ASHA, J.

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