



W.P.(MD) No.6689 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.09.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.6689 of 2017

and

W.M.P(MD)Nos.5257, 5258 and 10689 of 2017

S.Rajendran

.. Petitioner

Vs.

1.The District Collector,
Dindigul District,
Dindigul.

2.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Palani,
Dindigul District.

3.The Tahsildhar,
Palani,
Dindigul District.

4.The Assisant Commissioner,
Land Reforms/
Urban land Ceiling and Urban Land Tax,
Madurai.

.. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings in M.R.4/196/Palani/AA2 dated 30.04.2013 passed by the 4th respondent and quash the same as illegal based on the petitioner's representation, dated 10.02.2017.

For Petitioner : Mr.A.Nawazkhan
For Respondents : Mr.B.Saravanan
Additional Government Pleader

ORDER

Challenging the order passed by the fourth respondent dated 30.04.2013, in and by which, the assignment patta of the petitioner has been cancelled and seeking consequential direction for considering the representation of the petitioner dated 10.02.2017, the petitioner is before this Court.

2.It is the case of the petitioner that the petitioner had been in occupation of the land in S.No.438/8 at Periyamapatti Village, Palani Taluk, Dindigul District and he has spent considerable amount for the development and reclamation of the lands. The Government had introduced a scheme for providing lands to landless poor in Tamil Nadu.



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Therefore, the petitioner has made a request to the Government to assign the very same land to assign to him the land, in which, he was in occupation. After conducting an enquiry, the land was assigned to him and an assignment patta was issued in the year 1999 to an extent of 0.81 hectares. The petitioner would further submit that he has been in continuous possession and enjoyment of the properties. In the year 2005, he made a representation to the third respondent to survey the land and mark his boundaries and notice dated 27.04.2005 was issued by the Taluk Surveyor for appearing on 02.05.2005 for surveying the land. On 27.04.2005, instead of surveying the land, the surveyor had issued a notice directing the petitioner to remove the Seemaikaruvalam trees that was in the assigned land. Thereafter, he had removed the trees after getting an necessary approval from the Forest Department by engaging JCB machine. Thereafter, he has cultivated lemon trees in the said land. While so, the fourth respondent has cancelled the patta on 30.04.2013 without prior notice to the petitioner stating that the petitioner has not been in possession of the property. Challenging the same, the petitioner is before this Court.



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3.The petitioner's contention is that they have been in occupation and have not violated the condition stipulated in the assignment.

4.A counter affidavit has been filed by the second respondent *inter alia* contending that an extent of 82.22 acres of land in S.No.423 situated at Periyamapatti Village, Palani Taluk, was declared as surplus land from the holding of one G.D.Narrendra and the same was thereafter assigned to landless people in the year 1999, which includes the petitioner, each were allotted 2 acres. In the year 1999, a deed in Form-F was executed with a condition that the assignee shall engage himself in direct cultivation of the land and none of the assignees had engaged the lands into cultivating and kept the land lies waste. Thereafter, the respondent had frequently contacted the assignee to bring their land under cultivation. However, they did not comply with the said request. While so, the petitioner had taken out an application for surveying the land, which could not be done, as there was overgrown spontaneous bushes in the property and the petitioner was directed to clear all the bushes that was also evident that the petitioner kept the land waste, as a result of



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which, the assignment was cancelled. The lands had been assigned for the specific purpose for getting a form of income for the landless poor.

5.Heard the learned counsel appearing on either side.

6.Even going by the averments contained in the affidavit, it is crystal clear that the lands have not been cultivated, as the petitioner would himself keep property filled up with seemaikaruvalam and bushes, as a result of which, survey could not be done. If the lands were being cultivated, these bushes would not have grown. Further, on perusal of the impugned order would clearly show that an enquiry notice had been sent, since the petitioner is not in occupation of the property and the same has not been served on him.

7.Be that as it may, there has been violation of the assignment condition, the assignment has been cancelled only when the land has not been brought under cultivation. Therefore, the respondents are well within the right to cancel the patta as per the terms of the assignment



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which clearly provides and gives a right to the respondents to do so.

Therefore, I see no reason to interfere with the order impugned. Hence, this Writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

24.09.2024

NCC : Yes/No

Index : Yes/No

Internet : Yes

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