



W.P.(MD) No.18854 of 2016

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.08.2024

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THE HONOURABLE Ms.JUSTICE P.T.ASHA

**W.P.(MD) No.18854 of 2016
and
W.M.P.(MD) No.13644 of 2016**

S.Ramasamy

... Petitioner

/vs./

**1.The District Collector,
Dindigul District.**

**2.The Revenue Divisional Officer/Sub Collector,
Palani,
Dindigul District.**

**3.The Tahsildar,
Ottanchatram Taluk,
Dindigul District.**

4.Periyanayaki

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the proceedings passed by the 2nd Respondent in Na.Ka.No.192/2015/A1 dated



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21.07.2016 and quash the same is illegal consequently directing the 3rd respondent to issue the patta to the petitioner for the property situated in survey No.1/14 at Devathur, Ottanchatram Taluk, Dindigul District.

For Petitioner : Mr.M.Mohan Gandhi

For R1 to R3 : Mr.B.Saravanan
Additional Government Pleader

For R4 : No appearance

ORDER

The above writ petition has been filed for the issue of a Writ of Certiorarified Mandamus to quash the order of the second respondent in Na.Ka.No.192/2015/A1 dated 21.07.2016 and to direct the third respondent to issue patta to the petitioner for the property comprised in survey No.1/14 at Devathur, Ottanchatram Taluk, Dindigul District.

2. The petitioner's contention is that after retiring from the Indian Army from its Madras Engineering Group, where he had served from 1961 to 1973, the petitioner had settled in the aforesaid village. He has been cultivating the aforesaid land from the year 1996. On 30.08.1996, the Revenue Department had issued a notice to the petitioner and he had been regularly remitting the tax. The



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Panchayat Council had passed a resolution to grant patta to the petitioner in respect of the property. Thereafter, the petitioner requested the second respondent to issue patta to him, vide his representation dated 14.11.1999. The petitioner had enclosed the documents to show his possession, like B Memo, tax receipts and the resolution of the Panchayat Council etc. Pursuant to the enquiry conducted, the third respondent had issued an assignment order in his favour in respect of an extent of 0.26.0 in S.No.1/17, patta No.923 and in respect of an extent of 0.26.5 in S.No.1/16, patta No.924 in favour of the petitioner and his wife. However, the patta in respect of an extent of 0.74.0 land was not granted totally overlooking the fact that these lands belonged to the petitioner.

3. The petitioner would submit that the fourth respondent has been disturbing his possession and on enquiry, the petitioner came to learn that the third respondent had issued a patta in favour of the fourth respondent in respect of the aforesaid extent of 0.74.0. Therefore, the petitioner had made a request to the second respondent to cancel the pata granted.



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4. While the application was pending, the fourth respondent had attempted to disturb the possession and therefore, the petitioner was constrained to file a suit O.S.No.332 of 2008 before the District Munsif Court, Ottanchatram for bare injunction. The suit was decreed in favour of the petitioner on 14.09.2009, against which there was no appeal. However, in the year 2014, the fourth respondent destroyed the agricultural field, for which a complaint was lodged before the jurisdictional police and the fourth respondent was directed to pay a sum of Rs. 2,000/- to the petitioner. When the application was made before the second respondent for grant of issue of patta, the second respondent chose to reject the request on the ground that the decree in O.S.No.332 of 2008 was an *ex parte* decree relying upon the statement of the Village Administrative Officer that the lands have been cultivated. Since the request was rejected, the petitioner is before this Court.

5. The second respondent has filed a counter denying the contentions of the petitioner. The second respondent would submit that the lands in question have been classified as Assessed Waste Dry. It is the contention of the second respondent that at the time of assignment made by them in favour of the



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petitioner, the lands comprised in S.No.1/14, measuring an extent of 0.74.50 hectares, were occupied by the fourth respondent and the land in S.No.1/14 is situate just adjacent to the land in S.No.1/18 at Devathur Village.

6. In the year 2006, the Government had issued orders to regularize the encroachment made by the landless agricultural poor. Being the landless poor, the occupation of the fourth respondent was regularized and the assessment was made in favour of the fourth respondent on 19.09.2006, which appears to be the petitioner and the fourth respondent had dispute among themselves and a suit O.S.No.332 of 2008 came to be filed by the petitioner and thereafter, this petition for cancelling the assignment made by the petitioner on 13.01.2015 stating that the petitioner had obtained a decree for permanent injunction.

7. The second respondent would submit that the assignment can be cancelled only if there is violation/breach of conditions. No such breach of assignment condition has been done by the fourth respondent. Therefore, the representation of the petitioner was rejected and no exception can be taken to the same.



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8. Heard the learned counsel on either side.

9. The suit O.S.No.332 of 2008 was decreed holding that the fourth respondent, who was the first defendant in the suit, shall not disturb the petitioner's peaceful possession and enjoyment of the same and the suit property was described as an extent of 1.26.4 hectares. This judgment has not been challenged by the fourth respondent. The impugned order demonstrated the total non application of mind on the part of the second respondent. The second respondent had dismissed the petitioner's representation on the ground that an *ex parte* decree came to be passed. It would also submit that the order had been passed on the basis of the statement of the Village Administrative Officer.

10. This Court had directed the respondents to produce the original records. The records would clearly indicate that the patta had been granted in favour of the petitioner's wife, Pakiam in respect of 0.26.0 hectares. The respondents have failed to appreciate that the petitioner had filed the suit for injunction, which has been decreed in her favour. The suit had been decreed holding that she is in



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possession and enjoyment of the property in question. The impugned order does not reflect the same. On the contrary, the petitioner has produced title documents to show the same. Further, as already stated, the order impugned shows the non application of mind on the part of the second respondent. It appears that the petitioner has not been given an opportunity to put forward his case, particularly when he has documents to prove his possession.

11. Therefore, the Writ Petition stands allowed. The impugned order passed by the second respondent in Na.Ka.No.192/2015/A1 dated 21.07.2016 is set aside. No costs. Consequently, connected Miscellaneous Petition is closed.

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

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To

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Dindigul District.

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P.T.ASHA, J.

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