



W.P.(MD) No.15020 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.15020 of 2017
and
W.M.P(MD)No.11855 of 2017

V.Parvathy

.. Petitioner

Vs.

1.The District Collector
Sivagangai,
Sivagangai District.

2.The District Revenue Officer,
Sivagangai.

3.The Revenue Divisional Officer,
Devakottai,
Sivagangai District.

4.The Tahsildar,
Devakottai Taluk,
Sivagangai District.

5.P.Subramanian

.. Respondents



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Prayer :- Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified, calling for the records relating to the impugned proceedings of the second respondent in Na.Ka.No.C2/15427/2017 dated 02.08.2017 quash the same.

For Petitioner :Mr.B.Muruganandam
For R1 to R4 :Mr.B.Saravanan
Additional Government Pleader

ORDER

This writ petition is filed challenging the impugned proceedings of the second respondent in Na.Ka.No.C2/15427/2017 dated 02.08.2017 and quash the same.

2.The reasons for filing this writ petition before this Court is as follows:

The fourth respondent has assigned an extent of 1.11.5 acres(2.3/4 acres) to the petitioner situated in Sadayamangalam Village, Devakottai Taluk, Sivagangai District, by proceedings in T.A.21/1405 dated



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29.02.1996. Taking into account the fact that the petitioner was a deserted woman, the fourth respondent had assigned the aforesaid land. The petitioner had been cultivating the lands for several years. The assignment was given under the category of deserted landless poor.

3.The petitioner would submit that the fifth respondent and his community members, who belonged to different community, lodged a complaint against the petitioner for having obtained the assignment of the land in her favour and had been sending several false petition to the third respondent to cancel the assignment in favour of the petitioner and requesting the same to be assigned to put up a Primary Health Centre. Believing this complaint, a show cause notice was issued to the petitioner stating as to why the assignment should not be cancelled for violation of the assignment condition. The petitioner had immediately filed a suit in O.S.No.138 of 1998 before the District Munsif Court, Devakottai, against the respondents 1 to 3 for declaration and permanent injunction. In the said suit, the petitioner had taken a specific plea that she has not violated the condition of the assignment and has been cultivating the land



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till date. The Advocate Commissioner was appointed and he had submitted a report stating that the petitioner was cultivating the land which has been maintained by the petitioner with thorny bush fencing with an entry gate on the western side of property, wherein various trees had been planted in the property in question by the petitioner, which has been maintained by her. That apart, the Commissioner has also noted the fact that there were planted trees and paddy harvested. Therefore, the trial Court has decreed the suit in favour of the petitioner vide judgment and decree dated 30.04.1999. The said decree was challenged by the respondents 1, 3 & 4 in A.S.No.31 of 2001 before the Sub-Court, Devakottai. The appeal suit was also dismissed vide judgment and decree dated 29.01.2002, as a result of which, the judgment and decree of the trial Court was confirmed. Fourteen years after the decree, the fifth respondent has chosen to file a writ petition in W.P(MD)No.5410 of 2012 before this Court seeking to cancel the assignment suppressing all the facts. By order dated 20.04.2012, the writ petition was dismissed on the ground of laches and the same was confirmed in the writ appeal in W.A.No.444 of 2012. Thereafter, the fifth respondent and others had filed



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yet another writ petition in W.P(MD)No.12147 of 2012 to cancel the assignment given to the petitioner, since in the said writ petition was also sought the very same relief, which was sought in the earlier writ petition and the same was dismissed by order of this Court dated 09.02.2017, is not maintainable. Thereafter, the fifth respondent has given yet another complaint to the first respondent dated 31.07.2017, which was forwarded to the second respondent and on the basis of this complaint, the impugned notice has been issued.

4.Heard the learned counsel appearing on either side.

5.The learned Additional Government Pleader appearing for the respondents would submit that the respondents have issued notice only on account of the fact that the complaint has been given during the grievance day. The learned counsel appearing for the fifth respondent would submit that the land was required for public need.



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6.From the act of the second respondent, it is seen that the impugned notice is clear of violation of the judgment and decree passed in O.S.No.138 of 1998 by the District Munsif, Devakottai, which has been confirmed by the Sub-Court, in A.S.No.31 of 2001. Not only was the assignment in favour of the petitioner to be declared as valid but the petitioner was also declared as owner of the property. There was also an injunction restraining the defendants 1,3 and 4 from disturbing the petitioner's possession and enjoyment of the property. The impugned notice is a clear violation of the decree of injunction. Fifth respondent has been harassing the petitioner, who is a deserted woman, and who is taking care of her children singly. The assignment was also granted under the category of deserted landless poor and the report of the Advocate Commissioner clearly shows that the petitioner has been cultivating the lands, thereby complying with the condition of the assignment.

7.In the light of the title of the petitioner being declared, the impugned notice has necessarily got to be set aside. Accordingly, it is set aside. The writ petition is allowed. It is made clear that the respondents



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shall not entertain any petition in respect of the property that has been assigned to the petitioner. No costs. Consequently, connected miscellaneous petitions are closed.

24.09.2024

NCC : Yes/No

Index : Yes/No

Internet : Yes

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