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W.P.No.19081 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2025

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.19081 of 2024
and
W.M.P.Nos.20934 & 28984 of 2024

M.Sunderrajan @ Govindarassou

.. Petitioner

Vs.

- 1.The Union of India,
Rep. by Union Territory of Puducherry,
through its Chief Secretary,
Goubert Avenue, Puducherry.
- 2.The District Collector-cum-Appellate Authority,
Puducherry District, Puducherry.
- 3.The Director of Survey and Land Records,
Puducherry.
- 4.The Tahsildar – Cum – Specified Officer,
Taluk Office, Puducherry.
- 5.P.Murugaiyan

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the proceedings culminating in the order dated 23 August 2023 in LGR Appeal Petition No.01/2023 on the file of the 2nd respondent, quash the same and direct the 2nd respondent to conduct an enquiry afresh on the



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petitioner representation dated 06 February 2023 in accordance with the Pondicherry Land Grant Rules, 1975 and other appropriate laws and rules, within a time frame fixed by this Court.

For Petitioner : Ms.Gopika Nambiar
For RR 1 to 4 : Mr.A.Tamilvanan
Additional Government Pleader (Puducherry)
For R5 : M/s.C.Alagu Bhavani

ORDER

This writ petition has been filed challenging the proceedings of the 2nd respondent dated 23.08.2023 made in LGR Appeal Petition No.01/2023 and for a direction to the 2nd respondent to conduct an enquiry afresh based on the representation made by the petitioner on 06.02.2023 in accordance with the Pondicherry Land Grant Rules, 1975 .

2.The case of the petitioner is that he purchased a property in R.S.No.38/13 (Part) through a registered sale deed dated 19.06.1976 registered as Document No.873/1976. This property was kept as a vacant land. The further case of the petitioner is that the ingress and egress to this property is possible only through the Government land bounded on all three sides of the property. An attempt was made by the 5th respondent



3. The petitioner submitted a representation dated 03.07.2021 and for cancellation of the patta granted in the name of the father of 1st respondent. This was not acted upon and in the mean time, the 5th respondent started putting up construction in the property. The petitioner again made a representation dated 06.02.2023 to the 3rd respondent for the cancellation of the patta on the ground that the patta granted to the father of the 5th respondent will effectively block the ingress and egress of the property belonging to the petitioner. The second ground is that the father of the 5th respondent did not comply with the



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condition imposed in the assignment order and the construction was not put up within 6 to 12 months from the date of assignment.

4.Ultimately, pursuant to the order passed by this Court in W.P.No.7191 of 2023, the representation made by the petitioner was considered by the 2nd respondent and an enquiry was conducted. The 2nd respondent through the impugned proceedings dated 23.08.2023 dismissed the petition on the ground that the petitioner has access to the property through another site in R.S.No.38/17. That apart, the 2nd respondent also gave a finding that the petitioner has also encroached upon the eastern boundary of R.S.No.38/17 by constructing a RCC building and GI with a corrugated sheet and directed the removal of the same. The petitioner aggrieved by the order passed by the 2nd respondent has approached this Court.

5.When the matter came up for hearing on 13.03.2025, this Court after hearing both sides, passed the following order:

“This Court heard the learned counsel for the petitioner, the learned Additional Government



Pleader appearing on behalf of respondents 1 to 4 and the learned counsel appearing on behalf of the 5th respondent.

2.Before going into the issue that have been raised in the writ petition, this Court wants to ascertain the present status of Survey No.38/18 for which the LGR patta has been granted through proceedings dated 28.05.1976 in favour of the father of the 5th respondent, which was later granted in favour of the 5th respondent in the year 2021.

3.The communication that was sent by the Tahsildar, Puducherry to the Settlement Officer II, Puducherry dated 19.08.2021 shows that the petitioner is in possession of one portion of RS No.38/13 and the 5th respondent is in possession of the other portion in RS No.38/13. Insofar as RS No.38/18 for which the LGR patta has been granted, it has been mentioned that the same remains vacant and there is a existing road, which is used by the petitioner as an access to his property in RS No.38/13 part.

4.In the counter affidavit filed by the 3rd respondent, it is mentioned as if out of the total extent of 860 Sq.ft., the 5th respondent has constructed house in 430 Sq.ft and the remaining 355 Sq.ft has been compounded.

5.The communication made by the Tahsildar to the Settlement Officer with respect to the subject property in RS No.38/18 part wherein it has been



described that there is a right through which the petitioner is accessing his property in RS No.38/13 part, is running contrary to the stand that has been taken in the counter affidavit filed by the 3rd respondent as if a pucca construction has been put up by the 5th respondent to an extent of 430 Sq.ft. and the remaining extent has been compounded.

6.In view of the above, this Court wants to ascertain the actual status of the property in RS No.38/18 for which the LGR patta was issued. Hence, there shall be a direction to the 4th respondent to conduct a survey in the presence of the 3rd respondent, the petitioner and the 5th respondent and submit a report before this Court on the actual status of the property as it stands in RS No.38/13 and 38/18. The report shall reach this Court before the next date of hearing. Considering the same, further orders will be passed in this writ petition.

7.Post this writ petition under the caption for orders on 27.03.2025.”

6.The matter was once again listed for hearing on 02.04.2025 and the following order was passed by this Court:

“Pursuant to the earlier order, the matter was listed for hearing today.

2.On going through the report submitted by the fourth respondent, it is seen that R.S.No.38/18



has been re-assigned to the fifth respondent and there is one RCC structure, which is the residential house of the fifth respondent and the sketch that has been filed along with the report shows that the fifth respondent has also constructed a compound wall encroaching upon the Government poramboke land. The report also shows that the writ petitioner also encroached upon a portion of the Government poramboke land in R.S.No.38/17pt.

3.The petitioner is questioning the very assignment that was granted in favour of the father of the fifth respondent and the noncompliance of the conditions that were imposed while granting the assignment. It was submitted that the assignee was mandated to construct the house within a period of 6 to 12 months, whereas, the father of the fifth respondent, during his life time, had never put up any construction and after the re-assignment in favour of the fifth respondent, the construction was put up only in the year 2021. Therefore, the petitioner is seeking for cancellation of assignment on this ground. The petitioner is also relying upon condition No.5 of the assignment order, which also mandates pathways/ cart tracks, which is already available to be maintained in the same status.

4.Considering the grounds that have been raised in the writ petition and considering the fact that there has been repeated disputes between the petitioner and the fifth respondent, an amicable



settlement can be arrived at in this case if the fifth respondent provides for an access to the property belonging to the petitioner in Survey No.38/13pt. If that is done, the petitioner will be able to access his property and the fifth respondent can also retain the property that has been assigned in R.S.No.38/18pt and also the other properties in R.S.No.38/13pt.

5. When this Court expressed its mind, learned counsel for the fifth respondent seeks for some time to take instructions in this case.

Post this writ petition under the same caption on 09.04.2025.”

7. After the above order was passed on 02.04.2025, the matter was listed on 09.04.2025 and the following order was passed by this Court:

“This Court had already suggested a solution for the dispute between the petitioner and the 5 th respondent while passing an earlier order on 02.04.2025 and hence, there shall be a direction to the 5 th respondent to file an affidavit before this Court and inform this Court as to the access that is going to be provided to the petitioner in order to reach his property situated in Survey No.38/13 Part. Along with the affidavit, a sketch shall also be filed. Recording the same, the writ petition will be disposed of and by resorting to this process, the



petitioner can have access to his property and the 5th respondent can also retain the assigned lands in RS No.38/13 part.

2.Post this writ petition under the same caption on 21.04.2025.”

8. Thereafter, the counsel for the 5th respondent was repeatedly taking adjournments on one ground or the other and it was evident that the 5th respondent was not willing to give any space to the petitioner to have access to the property situated in R.S.No.38/13 (Part). This case could have been easily resolved if the 5th respondent had provided access to the property of the petitioner and in which case, this Court need not have gone into the issue regarding the violation of conditions of assignment and the 5th respondent could have retained the property assigned in R.S.No.38/18 (Part). Due to non cooperation on the side of the 5th respondent, the writ petition is now considered on merits.

9. The 2nd respondent has not considered one important issue while dealing with the representation made by the petitioner. The petitioner had specifically raised a ground to the effect that there was violation of condition of assignment since the super structure was not put up within 6 to 12 months from the date of assignment. This assignment was made on



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28.05.1976, whereas, the petitioner started facing problems in accessing his property only from April, 2021, when steps were taken to fence the property and to put up construction.

10.If the condition of assignment has not been complied with, condition No.10 in the assignment clearly stipulates that the land will be resumed for violation of condition. This issue was not even considered by the 2nd respondent.

11.The 2nd respondent has taken a stand that the land that was assigned in favour of the father of the 5th respondent was transferred to the 5th respondent as per the order dated 11.01.2021 by the 3rd respondent. This order transferring the land in favour of the 5th respondent has to be necessarily linked with the original grant made in the year 1976. Therefore, whatever conditions were imposed at the time of assignment has to be complied with. Such conditions are imposed in line with the Pondicherry Land Grant Rules, 1975.

12.The 2nd respondent instead of considering the grievance raised by the petitioner, was only trying to find fault with the petitioner as if the



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petitioner has encroached a portion of house site in R.S.No.38/17. The petitioner never had an opportunity to defend this finding since it was not even an issue during the enquiry. In the light of this finding, a direction was issued to remove the encroachment. This direction was stayed by the Court and the petitioner had the advantage of an interim order right through.

13.The petitioner has raised yet another ground to the effect that the person in whose favour the land was assigned was in possession of other properties as on the date of assignment and there were properties in Chennai also. Therefore, according to the Land Grant Rules, the person in whose favour the land was assigned was not a person who can be termed as a landless poor. This is yet another ground which has not been taken into consideration by the 2nd respondent.

14.In the light of the above discussion, the impugned proceedings of the 2nd respondent dated 23.08.2023 is hereby quashed and there shall be a direction to the 3rd respondent to conduct a fresh enquiry by affording an opportunity to the petitioner and the 5th respondent and orders shall be passed within a period of eight (8) weeks from the date of



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receipt of a copy of this order.

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15.In the result, this Writ Petition is allowed with the above directions. Consequently, the connected miscellaneous petitions are closed. No costs.

24.04.2025

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

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through its Chief Secretary,
Goubert Avenue, Puducherry.

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N.ANAND VENKATESH, J.

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