



WEB COPY

W.P.No.22678 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.22678 of 2019 and
WMP.Nos.22160 of 2019 & 23146 of 2020

K.Kaliappan

... Petitioner

Vs.

1.The Sub Collector,
Palaghat, Pollachi, Tamil Nadu 642 001

2.The Tahsildar,
Palaghat, Pollachi, Tamil Nadu 642 001

3.The Village Administrative Officer,
116, Thingamuthu Village,
115, Kumarapalayam, Pollachi Taluk, Pollachi

4.Manickam

... Respondents

PRAYER:

Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the entire records on the file of the first respondent vide proceedings in Na.Ka.No. 3229 / 2017 / A2 dated 29.01.2019 and quash the same, consequently direct the 1st respondent to consider and pass orders on the representation



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made by the petitioner dated 18.06.2019 regarding cancellation of

conditional patta in respect of the land comprised in Survey No.19 / 2A2,

19 / 2B1 to an extent of 0.36.5 hectares situated at Thingamuthu Village,

Pollachi Circle and to include the same in the revenue records within the

time to be stipulated by this court

For Petitioner : Mr.D.Udhayasuriyan

For Respondents

For R1 to 3 : Mr.T.Arun Kumar,
Additional Government Pleader

For R4 : No appearance

ORDER

This writ petition has been filed challenging the order passed by the first respondent dated 29.01.2019 thereby rejecting the request made by the petitioner to cancel the patta issued in favour of the fourth respondent and to restore the patta in the petitioner's father's name and to issue fresh notice in favour of the petitioner.

2. Originally the land comprised in survey No.19/2A2, 19/2B1, 19/2B2 to an extent of 0.73 hectares situated at Thimmankuthu Village, Pollachi was assigned and executed in favour of the petitioner's father on 05.10.1983 by the Assistant Commissioner of Land Reforms, Coimbatore



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under Section 94 of the Madras Land Reforms (Fixation of Ceiling of

Land) Act, 1961 (Madras Act 58 of 1961). The entire sale consideration was duly paid by his father and the subject land was assigned in favour of his father. Thereafter, his father was doing cultivation in the subject land and he died on 03.09.2000. After his demise, the petitioner is in possession and enjoyment of the subject property. All of a sudden, the fourth respondent attempted to interfere with the peaceful possession and enjoyment of the subject property on the ground that he was assigned the subject land by the first respondent in the year 1996. Therefore, the petitioner verified the revenue records and to his shock and surprise, he found that the entire revenue records had been mutated in the name of the fourth respondent and the subject land had been assigned in his favour.

3. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for respondents 1 to 3. Though affidavit was filed by the fourth respondent, no one appeared on behalf of the fourth respondent before this Court today either in person or through pleader.

4. On perusal of records, it is revealed that the petitioner was

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never issued any notice and the petitioner's father was never issued any notice before cancelling the assignment in respect of the subject land.

Admittedly, the petitioner's father had paid the entire sale consideration on assignment and he was issued patta. The petitioner's father died only on 03.09.2000. On perusal of records, it is revealed that the assignment was cancelled in the year 1993 itself and subsequently it was assigned in favour of the fourth respondent by the proceedings Na.Ka.No.4162/93/P dated 25.11.1996 on payment of initial amount of Rs.245/-. It is also seen that thereafter, the fourth respondent did not pay other dues i.e. cost of the land since he could not take possession of the subject property from the hands of the petitioner.

5. It is the submission of the learned Additional Government Pleader appearing for respondents 1 to 3 that though the petitioner's father was assigned patta, subsequently it was cancelled in the year 1993 and the same was re-assigned in favour of the fourth respondent. Thereafter, the first respondent also passed order dated 29.01.2019 thereby directing to hand over the subject property in favour of the fourth respondent. He further submitted that the writ petition itself is not maintainable since against the order passed by the first respondent, there

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is appeal remedy under Rule 10 of the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965. As against the order passed by the appellate authority, there is revisional jurisdiction before the Land Commissioner. Therefore, when there is appeal remedy very much available, the petitioner without exhausting the appeal remedy and revisional remedy, filed this writ petition. As such, this writ petition is not maintainable.

6. On perusal of records, it is revealed that admittedly the petitioner's father was assigned the subject land on payment of cost. After payment of cost, the petitioner's father was issued patta. Though the petitioner's father died on 03.09.2000, on the date of cancelling the assignment in the year 1993, the petitioner's father was very much alive and he was not served with any notice before cancelling the assignment of the subject land. That apart, till the petitioner's father's life time, he was in possession and enjoyment of the subject land. He died on 03.09.2000 and after his demise, his legal heirs are very much in possession and enjoyment of the subject property. In fact, after assignment patta was issued in favour of the fourth respondent, when the fourth respondent attempted to take possession of the land, the petitioner

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interfered and he did not permit the fourth respondent to enter into the land since he is in possession and enjoyment of the subject property. Then only, the petitioner came to knowledge about cancellation of assignment patta and issuance of assignment patta in favour of the fourth respondent. Therefore, the petitioner nor his father was served with any notice before cancelling the assignment patta. Hence, it is clear violation of principles of natural justice. Therefore, the petitioner submitted representation before the first respondent to cancel the assignment patta in favour of the fourth respondent. Though the petitioner has appeal remedy, on the ground of violation of principles of natural justice, this writ petition is very much maintainable.

7. On perusal of the affidavit filed by the fourth respondent, it is revealed that the fourth respondent was assigned the subject land by proceedings dated 25.11.1996. Even then, the fourth respondent failed to pay the cost of the subject land. That apart, the fourth respondent did not take possession of the subject land.

8. In view of the above, the impugned order cannot be



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sustained and the same is liable to be set aside. Accordingly, the impugned order passed by the first respondent dated 29.01.2019 is set aside. The allotment order passed in favour of the fourth respondent by the proceedings Na.Ka.No.4162/93/P dated 25.11.1996 is set aside. The original assignment patta issued in favour of the petitioner's father is restored. Due to the demise of the petitioner's father, the first respondent is directed to issue patta in favour of the petitioner who is being the legal heir of the original assignee.

9. With the above directions, this writ petition is allowed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

Neutral citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

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