



W.P.(MD)No.12210 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.04.2025**

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

WP(MD)No.12210 of 2024

and

W.M.P.(MD)Nos.10833 and 10834 of 2024

Veeran. V

... Petitioner

Vs.

1. The District Collector
Sivagangai District,
Sivagangai.
2. The District Revenue Officer
O/o.District Revenue Officer,
Sivagangai.
3. The Revenue Divisional Officer,
O/o.Revenue Divisional Officer,
Sivagangai.
4. The Tahsildar
Taluk Office,
Ilayankudi.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the 3rd respondent



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impugned order dated 08.06.2023 in Na.Ka.A3/3334/2023 and to quash the same and consequently direct the respondents 3 and 4, to restore the original Assignment patta in the name of the petitioner S.No.23/6 in an extent of 0.93.0 Ares, Seerathakudi Village, Uthamanoor Group Ilayangudi Taluk, Sivagangai District, in the light of the order passed in the case of *Seriya Pushpam Vs Special Commissioner CLA and other* reported in *2022(1) W.L.R Page 568* .

For Petitioner : Mr.J.John

For Respondents : Mrs.K.Malathi
Additional Government Pleader

ORDER

The petitioner challenges the order of the third respondent in Na.Ka.A3/3334/2023, dated 08.06.2023.

2. I have heard Mr.J.John, the learned counsel appearing for the petitioners, and Mrs.K.Malathi, learned Additional Government Pleader Government Advocate appearing for the respondents.

3. The learned counsel for the petitioner would submit that the property comprised in survey number 28/3 measuring. 0.93.0 Ares was owned by the petitioner and patta was also issued in favour of the



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petitioner in the year 1970 vide patta No.402, which is shown to be standing in the name of the petitioner. Similarly, in respect of the land survey No.28/6, measuring 1.21.5 Hectares, patta was issued in favour of one M.Muthu vide patta No. 351. All these were prior to the 1984 UDR scheme and the respective assignment holders have been in possession of the said patta lands. The learned counsel for the petitioner would also invite my attention to the decree of the Civil Court in O.S.No.45 of 2011, where the petitioner has approached the District Munsif cum Judicial Magistrate, Ilayangudi and arraying the District Collector, Sivagangai, District Revenue Officer, Sivagangai as well as the Tahsildar, Ilayangudi, as defendants and in the said suit, the plaintiff has sought for a relief of declaration and also a consequential relief of permanent injunction. The said suit has been decreed, granting the relief of permanent injunction. The relief of declaration was negatived, since the patta in the name of the plaintiff had been cancelled, which is challenged in the present writ petition. The Civil Court has found that the petitioner is in possession and granted the relief of permanent injunction. There is no appeal filed against the decree of the Civil Court as on date. The said decree has become final.



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4. The learned Additional Government Pleader would submit that the respondents have put up fence and they are in possession. However, this Court cannot ignore the decree of the competent civil Court upholding the possession of the writ petitioner. If aggrieved, the respondents ought to have preferred an appeal as against the decree of the civil Court in O.S.No.45 of 2011, passed way back on 23.02.2012. Therefore, the contention of the learned Additional Government Pleader that the respondents are in possession cannot be countenanced. Insofar as the cancellation of the assignment pattas issued to the petitioner, the law is now fairly well settled, on this aspect, this Court has time and again held that the assignments that have been issued prior to 1973 cannot be cancelled beyond a period of three years.

5. The learned counsel for the petitioner would also bring to my notice that in the very same village, similar cancellation of assignment was said aside by this Court in W.P.(MD)No.14204 of 2011 by order dated 13.06.2022. In the present case also, the petitioner before the Court is the original assignee and therefore, there is no justification for the respondents to cancel the assignment patta issued to the petitioner.



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6. Therefore, it is not open to the respondents to now claim that the petitioner has violated the conditions, namely, not commenced agricultural activities within a period of three years and on that ground cancel the assignment in favour of the petitioner.

7. In view of the above, this Writ Petition is allowed and the impugned order passed by the third respondent dated 08.06.2023 is set aside and the official respondents shall restore and issue patta within a period of eight weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
NCC : Yes / No
LS

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To

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P.B. BALAJI, J.

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Order made in
W.P.(MD)No.12210 of 2024

Dated:
04.04.2025