
(2013) 08 MAD CK 0103
In the Madras High Court
Case No : Writ Petition No. 11764 of 2009

A. Manimekalai

APPELLANT

Vs

The Commissioner of Land Administration, The District
Collector and The Tahsildhar

RESPONDENT

Date of Decision : 05-08-2013

Acts Referred:

Citation : (2013) 08 MAD CK 0103

Hon'ble Judges : T. Raja, J

Bench : Single Bench

Advocate : N. Ishtiaq Ahmed, for the Appellant; R. Vijayakumar, Additional
Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

T. Raja, J.—This writ petition has been filed challenging the correctness of the impugned order dated 22.4.2009 passed by the first

respondent, the Commissioner of Land Administration, Chennai, who confirmed the order passed by the second respondent, the District

Collector, Kancheepuram in his proceedings dated 19.8.2005, to quash the same with a consequential direction to the respondents to assign the

alternate land, as per the proposal of the third respondent, the Tahsildar, Chengalpattu in his proceedings R.C. No. 1647/2003/B1 dated

31.3.2005, by assigning 5 acres of land in Thaiyur B Village comprised in S. No. 1395-C/3A, 1279-6A, 6B1, 6B2 and 1299 to the petitioner.

The learned counsel for the petitioner submitted that the agricultural land covered in S. No. 177/1 in Thazhampur village, Chengalpattu Taluk to an

extent of 5 acres was assigned to the petitioner's father, late Mr. K. Appan Raj under the Freedom Fighters/Political Sufferers category in the year

1967 in T.K.D.C. No. 101/1376 dated 29.7.1967. Subsequently, patta No. 378 was also assigned in the year 1974 by issuing a patta passbook

on 9.7.74. After the said land covered in the above mentioned survey number was assigned to the petitioner's father in the year 1967, he was

cultivating the land by paying kist and other land tax to the revenue authorities. Subsequently, the petitioner's father also obtained agricultural loan

from Indian Overseas Bank, Adyar branch in loan No. 2 of 1984 and the same was also repaid on 29.1.98. In the meanwhile, when the

petitioner's mother committed default in not paying the loan amount obtained from Indian Overseas Bank, Indira Nagar branch, the bank filed a

civil suit in C.S. No. 830 of 1991 (re-numbered as O.S. No. 7506 of 1996 on the file of City Civil Court, Chennai) against the petitioner's father,

mother and two others. Subsequently, during the pendency of the said suit, since the entire amount was repaid to the bank, as a result, the suit was

dismissed on 9.8.96 as settled out of Court. At this juncture, the learned counsel for the petitioner submitted that these facts, namely, the issuance

of patta, adangal receipts for the fasli years 1386, 1387, 1388, 1389, 1390, 1391, 1393 & 1395 for the patta No. 378 along with the civil suit

filed by the Indian Overseas Bank, Indira Nagar branch in C.S. No. 830 of 1991 (O.S. No. 7506 of 1996) that came to be dismissed on 9.8.96

as settled out of Court, clearly show that the petitioner's father was not only assigned the land in question, but he was also in continuous

possession and enjoyment of the same. While so, all of a sudden, the patta came to be cancelled without giving any notice. When the petitioner's

father came to this Court by filing W.P. No. 15845 of 2000 for restoration of patta, since the petitioner's father approached the revenue

authorities for restoration of patta after the cancellation, this Court, by order dated 19.9.2000, while disposing off the writ petition, gave a direction

to the petitioner to get the particulars regarding the cancellation with further liberty to challenge the cancellation order. Although the petitioner's

father, on 19.9.2000, made a representation to furnish a copy of the order of cancellation of patta, the same was not furnished to the petitioner's

father, which compelled him to file another W.P. No. 7896 of 2003. This Court, by order dated 25.3.2003, disposed off the said writ petition by

directing that the petitioner's father should be furnished with a copy of the cancellation order. Even thereafter, when the respondents did not issue

the cancellation order, subsequently, on a representation made by the petitioner's father, the third respondent made a proposal for assignment of alternate land. Therefore, the petitioner's father once again came to this Court by filing another W.P. No. 36115 of 2004 seeking a direction to implement the order passed by the Tahsildar dated 6.2.2004. This Court, by order dated 18.3.2005, after hearing the parties, directed the authorities to consider the representation of the petitioner's father and pass appropriate orders in the light of the recommendation given by the Tahsildar, Chengalpattu. Subsequently, pursuant to the said direction, when the third respondent identified an alternate land situated in Thaiyur "B" village in S. Nos. 1395-C/3A, 1279/6A, 6B1, 6B2 and 1299 and thereupon sent a proposal to the District Revenue Officer in his proceedings Na.Ka. No. 1647/2003 B2 dated 31.3.2005, the petitioner's father received an enquiry notice dated 11.5.2005 from the District Revenue Officer, Kancheepuram. When he appeared before the District Revenue Officer and produced the originals of the patta passbook, identity card issued for small farmers, available kist receipts and pension passbook, again the second respondent-District Collector, sadly, disagreed with the case of the petitioner's father, by stating that there was no justification in the prayer of the petitioner's father, thereby dismissed his claim by order dated 19.8.2005. Aggrieved by that, the petitioner's father preferred an appeal before the first respondent, who also wrongly dismissed the appeal, as a result, the petitioner has come to this Court by filing the present writ petition in the capacity of legal heir of the deceased, as her father expired on 5.11.2007.

2. The learned counsel for the petitioner placed before this Court three submissions. Firstly, it is an admitted case that the petitioner's father was issued with the assignment order on 29.7.67. But unfortunately, the order of assignment of the land covered in S. No. 177/1 situate in Tazhampur village, Chengalpattu Taluk measuring an extent of 5 acres can be seen from the patta passbook issued in favour of the petitioner's father on 9.7.74, which clearly shows that the patta passbook No. 378 is co-related to the Survey No. 177/1 situate in Thazhampur village, Chengalpattu Taluk, but for the simple reason that the petitioner's father misplaced the assignment order, even though the petitioner's father was issued with the

passbook bearing No. 378 for the S. No. 177/1 in Thazhampur village, Chengalpattu Taluk, it cannot be held that no assignment was given to the petitioner's father. Further more, subsequently, by cancelling the assignment order without giving notice, the respondents have dispossessed the petitioner's father from the land in question, as a result, when the petitioner's father repeatedly came to this Court by filing the writ petitions as mentioned earlier, at one point of time, even the third respondent-Tahsildar also came forward to allot an alternate land, for the reason that the land covered in the assignment order dated 29.7.67 had already been assigned to some other party. Even the proposal forwarded by the third respondent for allotment of alternate land in favour of the petitioner's father has also not been properly accepted by the second respondent by giving any satisfactory reason. The learned counsel further stated that when the petitioner's father was able to prove his possession for quite a long time from fasli years 1386, 1387, 1388, 1389, 1390, 1391, 1393 & 1395 for the land covered in S. No. 177/1, once again the District Collector wrongly, without even assigning any single reason, brushed aside the case of the petitioner and also the proposal made by the third respondent. Under these circumstances, he prayed for a suitable order directing the respondents to allot an equally alternate land in the same Thazhampur village in Chengalpattu Taluk to the petitioner.

3. A detailed counter affidavit has been filed. The learned Additional Government Pleader for the respondents, opposing the above submissions, stated that it is not fair or proper on the part of the petitioner to say that her father was assigned the land in S. No. 177/1 situate in Thazhampur village in the year 1967, for the simple reason that admittedly, from the year 1962 to 1967, there was a ban order imposed by the Government in G.O.Ms. No. 1135, Revenue Department dated 17.3.62 not to allot any land in Thazhampur village in Kancheepuram District, since the land situate in Thazhampur village is Anadheenam land, the claim of the petitioner that her father was assigned the land in question, which is admittedly Anadheenam land, which is ineligible for assignment, cannot be accepted in view of the ban order dated 17.3.62. It was further pleaded before this Court that even if it is presumed for the sake of argument that the petitioner's father was assigned with the land in question covered in S. No.

177/1 in Thazhampur village to an extent of 5 acres in the capacity as a Freedom Fighter/Political Sufferer, the petitioner's father was not able to show either before this Court or before the revenue authorities either the original order of assignment or the copy of the assignment order. Although the petitioner's father was able to produce the adangal receipts for the fasli years 1386, 1387, 1388, 1389, 1390, 1391, 1393 & 1395, it is a settled law that the patta or the adangal receipts showing the name of the petitioner's father in respect of the land covered in S. No. 177/1 in Thazhampur village, Chengalpattu Taluk cannot confer any title or ownership. Therefore, the second respondent-District Collector rightly rejected the case of the petitioner's father for allotting alternate land, disagreeing with the proposal sent by the Tahsildar. Moreover, when the petitioner's father approached this Court repeatedly by filing W.P. Nos. 15845 of 2000, 7896 of 2003 and 36115 of 2004, at no point of time, he had taken any steps, as rightly mentioned by the second respondent-District Collector, to approach the civil Court to establish his right to avoid dispossession from the land in question. Therefore, when the petitioner's father came to this Court repeatedly on the ground that he was assigned the land in question by the assignment order dated 29.7.67, neither he was able to produce the original order nor the copy of the assignment order, therefore, the learned Additional Government Pleader rightly pleaded that the case of the petitioner cannot be accepted. This Court fully agrees with the submissions made by the learned Additional Government Pleader for the respondents for two reasons. Firstly, when the petitioner's father was said to have received the land in question covered in S. No. 177/1 to an extent of 5 acres in Thazhampur village, Chengalpattu Taluk in the year 1967 by the assignment order dated 29.7.67, unfortunately, the petitioner's father was not able to produce the said order of assignment at any point of time before any authority. Be that as it may, if the said order of assignment was even wrongly cancelled, although, subsequently, the petitioner's father came to this Court for getting a copy of the order of cancellation, in spite of the direction given by this Court in favour of the petitioner's father to get the copy of the assignment order, he was not able to get it, for the reason that there was neither an order of assignment passed in favour of the petitioner's father allotting the land in S. No. 177/1 nor the said assignment was subsequently cancelled. The revenue

records viz., the adangal receipts for the fasli years 1386, 1387, 1388, 1389, 1390, 1391, 1393 & 1395 no doubt show the name of the

petitioner's father. But, had he been in possession of the land in question from the year 1967, no one prevented the petitioner's father or even the

petitioner from approaching the civil Court, as rightly pinpointed by the second respondent-District Collector, for obtaining suitable relief not to

interfere with his possession. Unfortunately, the petitioner's father, after being dispossessed from the land in question, has not even thought of

approaching the civil Court, that undoubtedly goes to show that he was not issued with any assignment order, therefore, in such event, this Court,

finding that the petitioner is not able to show or produce either the assignment order or the order of cancellation of the assignment order, is not

inclined to agree with the case of the petitioner to interfere with the order passed by the second respondent, as confirmed by the first respondent.

For all the above reasons, the writ petition fails and the same is dismissed. Consequently, M.P. No. 1 of 2009 is also dismissed. No costs.