

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:13.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.3991 and 3992 of 2014
and M.P.Nos.1 and 1 of 2014

Selvi ...Petitioner in W.P.No.3991 of 2014
Mariayal ...Petitioner in W.P.No.3992 of 2014

Vs

1. The Director,
Adi Dravidar and Tribal Welfare Department,
Chepauk, Chennai - 5
2. The District Revenue Officer,
Villupuram.
3. The Special Tahsildar,
Adi Daravidar Welfare,
Kallakurichi, Villupuram District ...Respondents in both the
petitions.

Prayer :- Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to forbear the respondents 2 and 3 from allotting the house site namely plot numbers 11; & 53 respectively in SF.No.306/3A2, 3B1 at Nainarpalayam, Villupuram District in favour of anyone pending disposal of the appeal dated 16.03.2006 pending before the 1st respondent.

For Petitioners : Mr.R.Nalliyappan
For Respondents : Mr. V.Jayaprakash Narayanan
Special Government Pleader

COMMON ORDER

Heard Mr.R.Nalliyappan, learned counsel appearing for the petitioners and Mr. V.Jayaprakash Narayanan, learned Special Government Pleader appearing for the respondents. Since the issue involved in these Writ petitions are one and the same, both the matters are taken up together and a common order is being passed.

2. The petitioners seek to issue a Writ of Mandamus to forbear the respondents 2 and 3 from allotting the house site namely plot numbers 11; 53 respectively in SF.No.306/3A2, 3B1 at Nainarpalayam, Villupuram District in favour of anyone pending disposal of the appeal dated 16.03.2006 on the file of the 1st respondent.

3. The petitioners states that the respondents claimed an extent of 0.66.0 hectares of land in S.F.No.306/3A2, 3B2 and 306/3A2, 3B1 respectively at Nainarpalayam, Villupuram District to allot house sites patta to Adi-Dravidar community of the village. On 14.12.2001, the 3rd respondent, allotted sites to 55 beneficiaries including the petitioners and the patta was also issued to the petitioners. According to the petitioners, the patta issued to them were cancelled by the 2nd respondent by proceedings dated 25.02.2006, on the alleged ground that the petitioners are not resident of the Nainarpalayam village, without issuing any notice. It is further stated that patta granted to 13 other persons were also rejected on the same ground. One among the persons Tmt.Thanabakiyam has filed an appeal before the Commissioner of Land Administration, Chepauk, Chennai and the same has been forwarded to the 1st respondent for necessary remarks. It is stated that the appeal filed by the Thanabakiyam is pending. In the meantime, since the 3rd respondent was attempting to allot the property to 3rd party, the petitioners filed these Writ Petitions.

4.The petitioners would state that they are widow and are having three and two children respectively and landless poor and if the plot is allotted to some other 3rd party, their right would be prejudiced.

5.The 3rd respondent filed counter affidavit and in the counter affidavit it is seen that 13 house site patta was cancelled by the 2nd respondent on the ground of violation of assignment conditions. It is further admitted that the appeal filed by Tmt.Thanabakiyam is pending and the petitioners are yet to file any appeal and the appeal filed by Thanabakiyam was only for Thanabakiyam and not for others.

6.Considering the fact that the petitioners being landless poor and widow, this Court is of the view that the opportunity should be granted to petitioners also, as against the cancellation of the assignment of patta. Since the appeal is pending in respect of Tmt.Thanabakiyam, this Court is of the further view that even though there is a delay in filing the appeal, issue is yet to be decided by the Appellate Authority, hence, the petitioners are also to be granted liberty to file an appeal.

7.Accordingly, these Writ petitions are disposed of by directing the petitioners to file an appeal before the Commissioner of Land Administration, Chepauk, Chennai along with the copy of this order against the order of cancellation of assignment passed by the 2nd respondent dated 25.02.2006 within a period of three months from the date of receipt of copy of this order. On filing of such appeal, the Commissioner of Land Administration, Chepauk, Chennai, shall entertain the appeal without rejecting the same on the ground of limitation and direct the appeal to be heard along with the appeal filed by Thanabakiyam.

8.This Court is inclined to give such a direction because of the reason that the order dated 25.02.2006 has been passed without notice to the petitioners and without affording opportunity to the petitioners to put-forth their objections. Till the appeals are heard and disposed of by the Commissioner of Land Administration, Chepauk, Chennai, the plot in question shall not be allotted to the 3rd party, if not already allotted. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar

//True Copy//
Sub Assistant Registrar

ssd
To

1. The Director, Adi Dravidar & Tribal Welfare Dept.
Chepauk, Chennai-5.
2. the District Revenue Officer, Villupuram.
3. The Special Thasildar, Adi Dravidar Welfare,
Kallakurichi, Villupuram.
4. The Commissioner of Land Administration,
Chepauk, Chennai.

+ 1 cc to the Government pleader Sr.8081

W.P.Nos.3991 and 3992 of 2014
and M.P.Nos.1 and 1 of 2014

BR(CO)
Eu 26.02.15

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