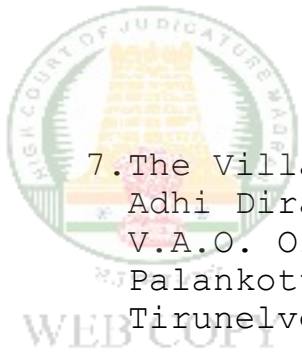


**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 25.05.2017****CORAM:****WEB COPY****THE HONOURABLE Mr.JUSTICE M.V.MURALIDARAN****W.P. (MD) Nos.9889 to 9898 of 2017**

Karuppayee	... Petitioner in W.P(MD)No.9889 of 2017
Packiyalakshmi	... Petitioner in W.P(MD)No.9890 of 2017
Kaliyammal	... Petitioner in W.P(MD)No.9891 of 2017
Chellathai	... Petitioner in W.P(MD)No.9892 of 2017
kalaiselvi w/o.Raja	... Petitioner in W.P(MD)No.9893 of 2017
Gomathi	... Petitioner in W.P(MD)No.9894 of 2017
Muthumari	... Petitioner in W.P(MD)No.9895 of 2017
Chinnalatchumi	... Petitioner in W.P(MD)No.9896 of 2017
Thamarai	... Petitioner in W.P(MD)No.9897 of 2017
Pounuthai w/o.kanagaraaj	... Petitioner in W.P(MD)No.9898 of 2017

Vs.

1. The State of Tamil Nadu,
Represented by the Secretary to Government,
Adi Diravidar and Tribal Welfare Department,
Fort.St. George, Secretariat,
Chennai - 600 009.
2. The Director,
Adi Diravidar and Tribal Welfare Department,
Chepakkam, Chennai - 600 005.
3. The District Collector,
District Collector Office,
Tirunelveli, Tirunelveli District.
4. The District Adi Diravidar and Tribal Welfare Officer,
District Adi Diravidar and Tribal Welfare Department,
District Collector Office Campus,
Tirunelveli, Tirunelveli District.
5. The Thasildar,
Adi Diravidar and Tribal Welfare Department,
Sankarankovil, Tirunelveli District.
6. The Revenue Inspector,
Adi Diravidar and Tribal Welfare Department,
Revenue Inspector Office, Palankottai,
Palankottai Village, Thiruvankadam Taluk,
Tirunelveli District.



7.The Village Administrative Officer,
Adhi Diravidar Tribal Welfare Department,
V.A.O. Office, Palankottai,
Palankottai Village, Tiruvenkadam Taluk,
Tirunelveli District.

... Respondents in all
cases

COMMON PRAYER: Petitions are filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents 1 to 5 to assign two cents of free house site Patta to the poor Adhi Diravidar petitioner for the dwelling purpose in Survey No.507/4A, 4B and 4C situated at Thonukal Village, Palankottai village panchayath, Sankarankoil taluk, Tirunelveli District which was acquired under the Tamil Nadu Acquisition for Harijan Welfare Scheme Act, 1978 based on the recommendations proceedings of the Respondents No.6 and 7 by considering the petitioner's representations dated 10.04.2017 and 09.05.2017.

For Petitioner : Mr.R.Karunanidhi
(in all cases)
For Respondents : Mr.T.R.Janarthanan,
(in all cases) Additional Government Pleader.

COMMON ORDER

This Court has taken all the ten writ petitions together, since all the petitioners' grievance are one and the same.

2.The Petitioners averred in their writ petitions that in the year 2001 the respondents acquired land 1 Acre 72 cents in Survey Number: 507/4A, 4B and 4C situated at Thonukal village, Palankottai village panchayath, Sankarankovil taluk, Tirunelveli district for a scheme to allot free house site under the Tamil Nadu Acquisition for Harijan Welfare Scheme Act, 1978. The said land was acquired for the purpose of providing house site to the Adhi Diravidar Community people. Further petitioners stated that totally 35 persons got each 3 cents for house site patta and 41 cents are remained as vacant till date in the above mentioned acquired land. The Petitioners requested several times to the respondents No-4 and 5 as in person to allot two cents of house site Patta for dwelling purpose on the ground of poverty.

3.The learned counsel appearing for the Petitioners represented that earlier on 11.11.2013 the 1st Respondent directed the 3rd Respondent to make inspection regarding allotment of house site Patta. The Petitioners' counsel further stated that the communication letter Number 18850/Ni.A.1/2013 dated 11.11.2013. The Petitioners' counsel further stated that



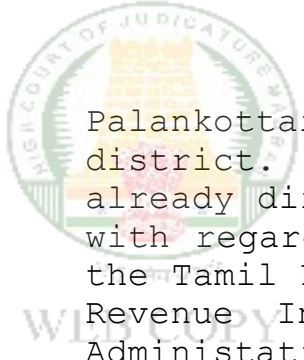
continuous representation has been submitted before the Respondents No-1 to 5. The counsel also brought to the attention of this Court that the Respondents No-6 and 7 have given a copy of comprehensive inspection report dated 21.03.2017 and 24.04.2017 and made recommendation to the Government for assigning 2 cents of house site from the acquired vacant land in Survey Number: 507/4A, 4B and 4 C situated at Thonukal village, Palankottai village panchayath, Sankarankovil taluk, Tirunelveli district. The learned counsel also invited attention of this Court that on 23.04.2015 the 5th Respondent requested 4th Respondent to pass necessary orders with the purpose of assigning Patta to the 10 families vide proceedings in Na.Ka.No.A.204/2012 and the same was also not taken into consideration by the 4th Respondent. It is further represented that earlier from December, 2009 the Petitioners and other people are living in thatched shed roofs in the above said land property.

4.The learned counsel Mr. R.Karunanidhi submitted that the Petitioners belong to Hindu Pallar Community which falls under the Scheduled Caste Community and the petitioners are eligible for the benefit under the Harijan Welfare Scheme. Further, the learned counsel argued that the Article 46 of the Constitution of India, is giving effect to the Policy of the State towards securing the principles laid down in Part IV which says that with a view to promote educational and economic interest of the Scheduled Caste and Scheduled Tribe and other weaker sections, the State shall have the power to promote the educational and economic interest of the weaker sections of the people, in particular, the interest of Scheduled Caste and Scheduled Tribe people, thereby protecting them from social injustice and all forms of exploitations. Such a Constitutional guideline enshrined should be taken into consideration by the Respondents.

5.The Learned Additional Government Pleader Mr.T.R.Janarthanan represented that the respondents acquired land 1 Acre 72 cents in Survey Number: 507/4A, 4B and 4 C situated at Thonukal village, Palankottai village panchayath, Sankarankovil taluk, Tirunelveli district for a scheme to allot free house site under the Tamil Nadu Acquisition for Harijan Welfare Scheme Act, 1978 and 41 cents are remained as vacant till date. The Additional Government Pleader also submitted that the Petitioners' representations dated 10.04.2017 and 09.05.2017 are pending before the Respondents office for consideration.

6.I have heard the learned counsel for the petitioners Mr.R.Karunanidhi, learned Additional Government Pleader Mr. T.R. Janarthanan appeared for the Respondents No-1 to 7.

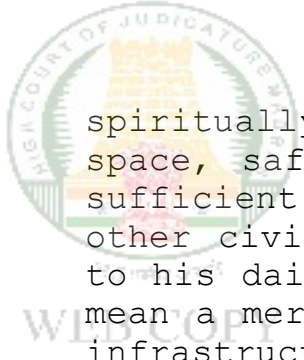
7.It is seen from the records that on 11.11.2013 itself the 1st Respondent has sent a communication letter to the 3rd Respondent to make inspection regarding allotment of house site Patta in Survey Number: 507/4A, 4B and 4C situated at Thonukal village,



Palankottai village panchayath, Sankarankovil taluk, Tirunelveli district. It is seen from the records that the 1st Respondent already directed the 3rd Respondent on 11.11.2013 for taking action with regard to assignment of house site patta under the scheme of the Tamil Nadu Acquisition for Harijan Welfare Scheme Act, 1978. The Revenue Inspector who is the 6th Respondent and the Village Administrative Officer who is the 7th Respondent already made inspection and recommended for allotting 2 cents of house site Patta to the Petitioners and 9 others. The Petitioners submitted representation before the 3rd Respondent on 10.04.2017 for providing 2 cents house site land for dwelling purpose. The Petitioners also sent representations to the Respondents No-1 and 2 on 09.05.2017. Though 41 cents are remained as vacant till date in the above mentioned acquired land, the petitioners' grievance was not considered till date by the Respondents. The revenue authorities might have assigned 2 cents of land to the petitioners in the acquired land since it is vacant for long period of time.

8.The definition of "'Harijan Welfare Scheme'" found in section 3(g) of T.N.Act 31 of 1978, which run as follows:- '3(g) "'Harijan Welfare Scheme" means any scheme for provision of house-sites for Harijans for constructing, extending or improving any dwelling-house for Harijans or for providing any burial or burning grounds for Harijans or for providing any pathway leading to such dwelling-house, burial or burning grounds, or for providing any other amenity for the benefit of Harijans. The Hon'ble Supreme Court held in **Prabhakaran Nair -Vs- State of Tamil Nadu and others (1987 AIR 2117)** that the Right to Shelter is a Fundamental Right guaranteed under Article 21 of the Constitution of India. The Hon'ble Apex Court held in **State Of Karnataka & Ors vs Narasimhamurthy & Ors (1995 SCC (5) 524)** that the right to shelter is a fundamental right of the Constitution and to make the same right meaningful to the poor, the State has to provide facilities and opportunity to build house.

9.At this juncture, it is very relevant to quote the Hon'ble Apex Court land mark judgment in **Chameli Singh vs State Of Uttar Pradesh (AIR 1996 SC 1051)** wherein the Apex Court held in Para No:8 "In any organised society, right to live as a human being is not ensured by meeting only the animal needs of man. It is secured only when he is assured of all facilities to develop himself and is freed from restrictions which inhibit his growth. All human rights are designed to achieve this object. Right to live guaranteed in any civilised society implies the right to food, water, decent environment, education, medical care and shelter. These are basic human rights known to any civilised society. All civil, political, social and cultural rights enshrined in the Universal Declaration of Human Rights and Convention or under the Constitution of India cannot be exercised without these basic human rights. Shelter for a human being, therefore, is not a mere protection of his life and limb. It is home where he has opportunities to grow physically, mentally, intellectually and



spiritually. Right to shelter, therefore, includes adequate living space, safe and decent structure, clean and decent surroundings, sufficient light, pure air and water, electricity, sanitation and other civic amenities like roads etc., so as to have easy access to his daily avocation. The right to shelter, therefore, does not mean a mere right to a roof over one's head but right to all the infrastructure necessary to enable them to live and develop as a human being. Right to shelter when used as an essential requisite to the right to live should be deemed to have been guaranteed as a fundamental right. As is enjoined in the Directive Principles, the State should be deemed to be under obligation to secure it for its citizens, of course subject to its economic budgeting. In a democratic society as a member of the organised civic community one should have permanent shelter so as to physically, mentally and intellectually equip oneself to improve his excellence as a useful citizen as enjoined in the Fundamental Duties and to be a useful citizen and equal participant in democracy. The ultimate object of making a man equipped with a right to dignity of person and equality of status is to enable him to develop himself into a cultured being. Want of decent residence, therefore, frustrates the very object of the constitutional animation of right to equality, economic justice, fundamental right to residence, dignity of person and right to live itself. To bring the Dalits and Tribes into the mainstream of national life, providing these facilities and opportunities to them is the duty of the State as fundamental to their basic human and constitutional rights".

10. For the above detail discussion this Court is of the view that the house sites to the poor houseless is a public purpose and it is a constitutional duty of the State to provide house sites to the poor since the Right to Shelter is one of the Fundamental Right under the Article 21 of the Constitution of India. In view of the above stated reasons, the writ petitions are allowed and the Respondents No-1 to 5 are directed to assign each two cents of free house site Patta to the petitioners for dwelling purpose in Survey Number: 507/4A, 4B and 4C situated at Thonukal village, Palankottai village panchayath, Sankarankovil taluk, Tirunelveli district which was acquired under the Tamil Nadu Acquisition for Harijan Welfare Scheme Act, 1978, by considering the petitioners' representations dated 10.04.2017 and 09.05.2017 positively based on the recommendation proceedings of the Respondents No-6 and 7 within a period of 6 weeks from the date of receipt of copy of this order.

11. With the above directions, all the Writ Petitions are disposed of. No costs.

Sd/-

Assistant Registrar (RTI)



To

1. The Secretary to Government,
Adi Diravidar and Tribal Welfare Department,
Fort.St. George, Secretariat,
Chennai - 600 009.
2. The Director,
Adi Diravidar and Tribal Welfare Department,
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7. The Village Administrative Officer,
Adi Diravidar Tribal Welfare Department,
V.A.O. Office, Palankottai,
Palankottai Village,
Thiruvankadam Taluk,
Tirunelveli District.

+10cc to Mr.R.Karunanithi, Advocate in SR.No.57551 to 57560
+1cc to Special Government Pleader in SR.No.57889

skn

AE/JC/SAR2/12.06.2017/6P/19C

W.P. (MD) Nos.9889 to 9898 of 2017
25.05.2017