



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 05.01.2017

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CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Writ Petition (MD) No.11373 of 2013

S.Pangajam

... Petitioner

Vs.

The Tahsildar,
Taluk Office,
Agastheeswaram Taluk,
Kanyakumari District.

... Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records from the Respondent relating to the impugned order dated 19.04.2013 passed in A4/8664/2013 quash the same and consequently to direct the Respondent to issue new patta in the name of the petitioner for her land in at Survey NO. 84/7 Pudukulam Puravi Jenmam Vadasery Village Agastheeswaram Taluk.

For Petitioner :Mr.T.Aswin Rajasimman
for Mr.T.Lajapathy Roy

For Respondent :Mr.Aayiram K.Selvakumar,
Government Advocate.

ORDER

Aggrieved against an order passed by the respondent dated 19.04.2013, denying issuance of patta to the petitioner on the ground that the land is classified as arachar land, the present writ petition has been filed.

2.On an earlier occasion, when the petitioner along with several similarly placed persons had approached this Court in connection with the same issue, an order came to be passed in W.P(MD) No.9060 of 2014 etc., dated 04.08.2014. The relevant portion of the said order reads as follows:-

20.The impugned order, dated 12.05.2014,
has virtually nullified all the sale
transactions, which have been taken place,



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since 2005 and it has cancelled the mutations effected during the past nine years, which were effected by the Revenue Officials. The validity of the impugned order after the grant of approval for conversion of agricultural land into residential layout is a big question mark. Further, planning permission is said to have been granted in favour of twenty persons and they have put up constructions. Unless and until the ryotwari pattas, which was granted to the Aarachars during 1967, are terminated or cancelled or modified in the manner known to law for failure of any condition or such other matters, the question of nullifying the subsequent transactions made by the legal heirs of the Aarachars would not arise. As rightly contended by the learned counsels for the petitioners, it amounts to putting the cart before the horse. The entire proceedings are in a total disarray, principles of natural justice have been thrown to the winds, arbitrariness looms large on the face of the impugned order, perversity is manifest and the impugned order does not satisfy the test of reasonableness or fairness.

21. That apart, the impugned order has been passed on a thorough misconception of the legal and factual position. The authority has misread the order of the Assistant Settlement Officer, dated 25.04.1967 and was under the impression that the Aarachar service was to be rendered to the State of Tamil Nadu when the condition is to be done for the State of Kerala on orders being passed by the Kerala Government as and when required. This misconception has led to arbitrary exercise of power. The notices for all the petitioners are said to have been served by affixure. Several of the petitioners have not put up construction and only twenty of them have put up construction. It is not known as to what procedure was followed while affixing such notices in the vacant lands. The action initiated by the



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second respondent appears to be a knee jerk reaction to the petition received from an individual on 16.12.2013. It is stated that there are very serious allegations as against the said individual that he and his group of persons promised to get free pattas and collected several lakhs of rupees as registration fees and FIR in this regard is said to be pending against them. That apart, the second respondent referred to the report of the Tahsildar, dated 20.02.2014. Copy of such report was not furnished to the petitioner nor placed before this Court. Thus, the impugned order is manifestly illegal and liable to be set aside.

3.Mr.Aayiram K.Selvakumar, learned Government Advocate appearing for the respondent, on the other hand, would submit that the petitioner is not the original grantee but subsequent purchaser and he has not produced any document to establish that the vendors of the petitioner is the legal heir of the inamdar and all the transactions were effected after 2005. He would further submit that while an appeal remedy is available against the impugned order, the present writ petition has been filed without availing the alternative remedy is not maintainable. It is his further submission that originally patta has been issued subject to the condition that the aarachar service will be continued to be performed upto 1970 and since there was no such service thereafter, the lands are deemed to have been vested back with the State and hence, the question of alienation of the land does not arise.

4.When identically placed persons have been granted relief which has been extracted above, I do not find any reason as to why the petitioner should be discriminated. As a matter of fact, when the above order came to be passed in a batch of writ petitions, the petitioner also was one among them in W.P.No.9648 of 2014 etc., dated 04.08.2014. In view of the same, it would be appropriate that a similar order also be passed in this writ petition.

5.At this juncture, learned counsel for the



direction is given to the respondents to consider the representation.

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6. In view of the submissions made on either side, there shall be a direction to the respondents to consider representation of the petitioner dated 27.05.2013 in the light of the order of this Court passed in the batch of writ petitions in W.P.(MD) No.9060 of 2014 etc. ,dated 04.08.2014 and pass orders in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

7. With the above direction, the writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar[CO]

/True copy/

Sub Assistant Registrar

To
The Tahsildar,
Taluk Office,
Agastheeswaram Taluk,
Kanyakumari District.
+1cc to Mr.T.Lajapathi Roy, Advocate, SR.1034
+1cc to Mr.Special Government pleader, SR.1505
SMS
KK-KM-25.01.17-4p-4c

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