

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2018

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.10648 of 2018
and
W.M.P.No.22666 of 2018

A.Margandan
S/o.Azaghagumuthu Petitioner

- Vs -

- 1.The District Collector
Cuddalore, Cuddalore District - 606 106.
- 2.The District Revenue Officer
Cuddalore, Cuddalore District - 606 106.
- 3.The Revenue Divisional Officer
Virudhachalam, Cuddalore District - 606 106.
- 4.The Tahsildar
Tittagudi taluk
Cuddalore, Cuddalore District - 606 106.
- 5.The Special Tahsildar
Harijan Welfare Department
Virudhachalam, Cuddalore District - 606 106.
6. The Assistant Engineer,
Electricity Board,
Keezhakkal poondi,
Tittagudi Taluk,
Cuddalore, Cuddalore District.
7. N. Jimmiki W/o Veeramuthu
8. K.Malarkodi W/o Karumayiram
9. M. Pappal Wo/Munian

10. M.Anjalai W/o Munian
11. S.Pazhanimmall W/o Sadayan
12. K.Saroja W/o Kalyanasundaram
13. R.Sellammall W/o Late Raman
14. P.Nallammall W/o Late Patathan
15. A.Valli, W/o Ayyamperumal
16. G.Malarkodi W/o Govindaraju
17. P. Kannammall W/o Periyasamy

... Respondents

PRAYER : Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondent to consider the representation dated 03.04.2018 and direct the respondent to remove the encroachments made by the respondents 7 to 17 in S.No.126/4B admeasuring to an extent of 46 cents reserved for the communal purpose as per the conditions stipulated in the assignment order.

For Petitioner : Ms.D.Malarvizhi

For Respondent : Mr.A.N.Thambidurai,
Special Government Pleader
(for R1 to R5)

Mr.P.R.Dhilipkumar,
Standing counsel, for R6

Mr.Venkatasubban,
for M/s.Sarvabhauman Asso.
for R7 to R17

O R D E R

The petitioner is one of the residents of Keezkalpoondi Village, Thittakudi Taluk, Cuddalore District who has been allotted a plot under Homeless Adi Dravida Scheme as early as in the year 1984. Like petitioner, many other persons were also allotted plots and they have put up construction and enjoying the same. The said properties are located in S.No.126/3 and 126/4B in Keezkalpoondi Village. In the said housing layout, a portion of land measuring an extent of 46 cents has been earmarked for communal purpose.

2.Subsequently, on 19.01.1990, the private respondents viz., R7 to R17 were allotted and given patta in respect of the land which has been reserved for communal purpose. Even though the said allotment was made as early as in the year 1990, the private respondents contrary to conditions prescribed in the allotment order did not make any construction within a period of six months and therefore, the petitioner gave a representation dated 03.04.2018 calling the private respondents as encroachers and sought for removal of those encroachment, as the said extent of 46 cents has been reserved for communal purpose.

3.Heard Ms.D.Malarvizhi, learned counsel appearing on behalf of the petitioner, Mr.T.M.Pappiah, learned Special Government Pleader appearing on behalf of the respondents 1 to 5; Mr.P.R.Dhilipkumar, learned Standing counsel appearing on behalf of the 6th respondent and Mr.Venkatasubban, learned counsel appearing on behalf of the respondents 7 to 17.

4.Ms.D.Malarvizhi, learned counsel appearing on behalf of the petitioner would submit that the conditional patta given to the private respondents have not been complied with as they did not make any construction within a period of six months. Moreover, the area reserved for communal purpose cannot be utilized for making further allotment as the same would violate the rights of the persons who are already allotted and enjoying the property by putting up construction. However, Mr.Venkatasubban, learned counsel appearing on behalf of the private respondents 7 to 17 would submit that the private respondents are not new to the area but they were granted patta as early as in the year 1990 and they have put up construction and enjoying the same.

5.Already on an earlier occasion, a person viz., M.Panchayathan who is similarly placed as that of the petitioner herein had filed a writ petition before this Court in W.P.No.24893 of 2006 seeking a writ of mandamus directing the respondents to retain and maintain the land, measuring 46 cents in Survey No.126/3, 4B of Village Keelakalpoondi, Tittakudi Taluk for communal purpose as earmarked earlier on 15.09.1984. The said writ petition came to be dismissed vide order dated 08.12.2006, against which a writ appeal in W.A.No.1043 of 2007 came to be filed and the same was also dismissed vide order dated 21.02.2008. Now, after a lapse of 10 years, the matter is sought to be reopened at the instance of the petitioner herein which cannot be done.

6.Considered the rival submissions made by either of the parties. No doubt, the layout of house sites in S.Nos.126/3,

126/4B dated 15.09.1984 would reveal that 46 cents have been reserved for communal purpose. The layout itself have been utilized for providing house sites for poor Adi Dravidar people. When that being so, even though 46 cents have been earmarked for communal purpose, the Government thought it fit to allot patta for the private respondents who also belong to poor Adi Dravidar community. The conferment of patta is not done in the recent past but it was done about a decade ago.

7. Moreover, similar writ petition filed by M.Panchayathan was dismissed by the learned Single Judge of this Court and the same was also confirmed in the Appeal. A perusal of the said order passed in W.A.No.1043 of 2007 would indicate that the earlier writ petition in W.P.No.4305 of 1991 seeking for similar relief was already dismissed. Therefore, it is very clear that immediately after the patta was given to the private respondents, the same was challenged in W.P.No.4305 of 1991 and it was dismissed. Subsequently, relying upon the order made in W.P.No.4305 of 1991, the First Bench of this Court vide order dated 21.02.2008 made in W.A.No.1043 of 2007 had confirmed the dismissal of the writ petition filed by M.Panchayathan. Therefore, the issue had already been finalised by the Hon'ble First Bench of this Court and the same cannot be reopened. If every matter is sought to be reopened, there will be no end to the issue at all. In the instant case, only in the interest of the poor Adi Dravidar people, the land reserved for communal purpose has been utilised as early as in the year 1990 and therefore, the petitioner is also guilty of laches in approaching this Court and hence, the writ petition deserves to be dismissed.

8. At this juncture, it is brought to the notice of this Court that the private respondents have not been provided with electricity connection. When patta has been granted for accommodation of poor Adi Dravida People, all the amenities have to be provided by the authorities and mere allotment of land alone is not sufficient. It is averred by Mr.Venkatasubban, learned counsel that for the past 28 years, the private respondents have been suffering without electricity connection. It is unimaginable to think of a life without electricity connection, as the electricity which was once considered to be luxury has now become an essential amenity. Therefore, the private respondents 7 to 17 are directed to apply for the electricity connection as per law within a period of two weeks from the date of receipt of a copy of this order and on receipt of such application, the 6th respondent viz., The Assistant Engineer, Electricity Board, Keezhakkal Poondi, Tittagudi Taluk, Cuddalore District is directed to consider the application and provide electricity connection within a period of 10 days thereafter.

9.In fine, the writ petition fails and the same is dismissed. Connected miscellaneous petition is closed. No costs.

For reporting compliance, call the matter on 19.11.2018.

Sd/-

Assistant Registrar(CS-IX)

//True copy//

Sub Assistant Registrar

pgp

To

- 1.The District Collector
Cuddalore, Cuddalore District - 606 106.
- 2.The District Revenue Officer
Cuddalore, Cuddalore District - 606 106.
- 3.The Revenue Divisional Officer
Cuddalore, Cuddalore District - 606 106.
- 4.The Tahsildar
Tittagudi taluk
Cuddalore, Cuddalore District - 606 106.
- 5.The Special Tahsildar
Harijan Welfare Department
Virudhachalam, Cuddalore District - 606 106.
- 6.The Assistant Engineer
Electricity Board
Keezhakkal Poondi
Tittagudi Taluk
Cuddalore Cuddolre District

+2cc to M/s.Sarvabhauman Associates, Advocate SR.No.51082

+1cc to M/s.D.Malarvizhi, Advocate SR.No.51704

+1cc to Government Pleader SR.No.52469

W.P.No.10648 of 2018

GMV (23/10/2018)