

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28-09-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.4041 of 2014

And

M.P.Nos.1 and 2 and of 2014

Mrs.Kamatchi

... Petitioner

..Vs..

1.The Thasildhar,
Gingee Taluk,
Villupuram District.

2.The Block Development Officer,
Panchayat Union,
Gingee,
Villupuram District.

3.The Collector,
Villupuram District,
Villupuram.

... Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in respect of Order No.VPM DT/THASILDHAR/ GIN/ L1/ 13482/2013 dated 13.12.2013 passed by the Thasildhar, Gingee and BDO Panchayat Union, Gingee Lr.No.316731 dated 24.12.2013, quash the same and direct the respondents to grant 3 cents house site and Patta in Road Poramboke as petitioner has already identified a place where human being are fit to live.

For Petitioner : Mr.C.Sundaramurthy

For Respondents : Mr.M.Karthikeyan,
Additional Government Pleader.

O R D E R

The order of rejection passed by the first respondent in proceedings dated 13.12.2013, rejecting the claim of the writ petitioner for grant of free house site patta, is under challenge in this writ petition.

2. The learned counsel for the writ petitioner states that the writ petitioner is living with her aged mother and younger sister for the past 30 years at New No.105, Tindivanam Road, Ooranithangal, Gingee Taluk, Villupuram District. The learned counsel for the writ petitioner further states that the land under occupation of the writ petitioner was taken over by the Government for expansion of Highways under the provisions of the Highways Act. Thus, the writ petitioner made an application to allot alternate land for the purpose of construction of a house for her residence.

3. The writ petitioner admits that a land was already allotted to her in a remote area that too in a hilly place. Therefore, the writ petitioner is unable to reside there on account of various factors. Thus, the writ petitioner submitted another application for grant of free house site patta within the town limits. However, the same has not been considered by the authorities. Thus, the writ petitioner is constrained to move the present writ petition.

4. The learned Additional Government Pleader, appearing on behalf of the respondents, objected the said contentions of the learned counsel for the writ petitioner, by stating that the writ petitioner is not entitled for any grant of free house site patta, since the same was already granted to her by the authorities concerned.

5. Relying on the counter-affidavit filed by the first respondent, it is contended that the Tahsildar, Gingee as per the directions of the third respondent, allotted to the writ petitioner, about 0.03 cents comprised in S.No.53/1, which is "Unassessed Waste Lands" (Tharisu Poramboke), after leveled the place able for immediate occupation. The writ petitioner accepted the place shown by the then Tahsildar, Gingee and they constructed a thatched house and also a shed for sheep shelter in the said S.No.53/1. Suddenly, the writ petitioner changed her mind, after occupying the site allotted in S.No.53/1 and made a representation to allot house site only in Kulam Poramboke S.No.36/1, as if the site provided in S.No.53/1 is not safe for living. The subsequent objections raised by the writ petitioner are not correct. In view of the fact that such a representation submitted by the writ petitioner cannot be considered since the area suggested by the writ petitioner is Kulam Poramboke, which is a water body. Thus, the claim of the writ petitioner was rejected.

6. This Court is of an opinion that grant of free house site patta can never be claimed as a matter of legal right. The Government by introduction of Welfare Schemes, is granting free house site patta to the landless poor people. Whenever such

Schemes are implemented, the same is to be implemented uniformly and to all the similarly placed persons. There cannot be any discrimination in respect of implementation of such Welfare Schemes to the similarly placed persons.

7. Considering the plight of the writ petitioner, the respondents had already granted a free house site patta to the writ petitioner. The writ petitioner also occupied the said portion of the land and constructed a thatched house and also a shed for sheep shelter in S.No.53/1.

8. Thus, the writ petitioner cannot claim any further land or alternate late for grant of free house site patta. The writ petitioner cannot select a place and ask the authority to grant free house site patta in respect of a particular land. It is the duty of the competent Authorities to inspect and take a decision for grant of free house site patta. The grant of such free house site patta should not hinder the Welfare Schemes to be implemented in the interest of public at large.

9. Thus, it is not a matter of right and the writ petitioner cannot claim free house site patta against the place of her own choice. Thus, the writ petitioner has not established even a semblance of legal right, so as to consider the relief, as such, sought for in the present writ petition.

10. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Svn

To

1.The Thasildhar,
Gingee Taluk,
Villupuram District.

2.The Block Development Officer,
Panchayat Union,
Gingee,
Villupuram District.

3.The Collector,
Villupuram District,
Villupuram.

+1 cc to Mr.C.Sundaramurthy, Advocate, S.R.No. 67656
+1 cc to The Government Pleader, S.R.No. 67835

WP No.4041 of 2014

RR(CO)
CSL/17.10.2018



WEB COPY