

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 26/9/2018

C O R A M

THE HON'BLE Mr.JUSTICE S.MANIKUMAR

A N D

THE HON'BLE Mr.JUSTICE SUBRAMONIUM PRASAD

Writ Petition No.24931 of 2018

P. Lakshmi ... Petitioner

Vs

1. The Principal Secretary to Government

Adi Dravidar Welfare Department

Fort St. George

Secretariat

Chennai 600 009.

2. The District Collector

Erode District

Erode 638 011.

3. The Special Tahsildar

Harijan Welfare

Collector Office Buildings

Erode 638 011. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the third respondent to issue free house site patta in Re-survey No.159/2 in Elunuthimangalam Village, Kodumudi Taluk, Erode District for the eligible beneficiaries including the petitioner, residing in Rasampalayam Harijan Colony, Kodumudi Taluk, Erode District.

For petitioner ... Mr.Durai Gunasekaran

For respondents ... Mr.E.Manoharan,

Additional Government Pleader

for RR.1 to 3.

O R D E R

(Order of the Court was made by S.Manikumar,J)

Contending inter alia that lands have been acquired, under Harijan Welfare Scheme Act, to an extent of 5.5 acres, in Elunuthimangalam Village, and though the petitioner was identified, as beneficiary, under the scheme, not given free house site patta, in resurvey No.159/2, instant writ petition has been filed, for a mandamus, directing the Special Tahsildar, Harijan Welfare/third respondent, to issue pattas, to the eligible beneficiaries, including the writ petitioner.

2. On 20/9/2018, we directed Mr.E.Manoharan, learned Additional Government Pleader, to get details as to whether lands have been acquired, possession taken by the authorities and as to whether there are any houseless villagers identified to be the beneficiaries, under the instant acquisition proceedings.

3. On instructions from the District Collector, Erode, second respondent, the learned Additional Government Pleader submitted that a total extent of 2.22.0 hectares (5.48 acres), in S.No.159/2B of Elunuthimangalam Village, was acquired for providing free house sites, to homeless Adi Dravidar and Arundhathiyar, under Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act, 1978 (Act 31 of 1978). Possession of the land was taken by the authorities, on 24/11/2000.

4. Learned Additional Government Pleader further submitted that 101 Adi Dravidars in Rasampalayam Hamlet of Elunuthimangalam Village of Kodumudi Taluk (then Erode Taluk) Erode District had applied for issuance of patta for S.F.No.159/2B of Elunuthimangalam Village in the year 2000 itself. Pattas for 102 Adi Dravidars in Rasampalayam were prepared on 27/12/2000. Patta for site number 64 was also prepared on the same day, i.e., on 27/12/2000 for the writ petitioner. But the petitioner did not receive the patta till date, for reasons best known to her. He further submitted that nobody in Rasampalayam Village, had chosen to obtain patta in S.No.159/2B though it was made ready. Learned Additional Government Pleader further submitted that lands measuring 5.48 acres on S.F.No.159/2B is still vacant.

5. Award No.5/2000/A has been passed by the Special Tahsildar, Adi Dravidar Welfare Schemes, dated 21/11/2000 and the erstwhile land owners have filed appeals for enhancement. Appeal is pending in this Court.

6. Learned Additional Government Pleader further submitted that the above said 102 Adi Dravidars in Rasampalayam Village were identified as eligible beneficiaries. He further submitted that if the petitioner and others make necessary applications, to the Special Tahsildar, Harijan Welfare, Erode, third respondent, their applications would be considered, based on the eligibility, as on today, and pattas would be issued to eligible persons. Submission of the learned Additional Government Pleader is placed on record.

7. From the above, it could be deduced that though 102 Adi-Dravidars in Rasampalayam were identified, as beneficiaries and pattas were also prepared, for more than 18 years, they have not approached this Court.

8. Remedy under Article 226 of the Constitution of India, is equitable in nature and delay defeats equity. However, on the facts and circumstances of the case, when lands are lying vacant and when the same has not been put to any other public purpose, under the scheme and in the light of the statement of the respondents that if the petitioner as well as others, enumerated in the year 2000, make an application for issuance of patta, the same would be considered, on the basis of their eligibility, we permit the petitioner, to submit an application, to the Special Tahsildar, Erode, third respondent, within fifteen days, from the date of receipt of a copy of this order. On receipt of the applications stated supra, Special Tahsildar, third respondent is directed to pass suitable orders, regarding issuance of patta and issue patta to the eligible beneficiaries, within a period of fifteen days.

9. Issue of compensation has no relevance for issuance of patta. Land owner has not challenged the acquisition proceedings and therefore, the Tahsildar, Erode District, is directed to proceed.

10. With the above directions, writ petition is disposed of. No costs.

(S.M.K.,J) (S.P.,J)
26th September 2018
mvs.

Index : Yes/No

Internet : Yes/No

To

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S.MANIKUMAR,J

&

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