

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.32824 of 2007

And

M.P.No.1 of 2007

M.C.Anbuchezhian

... Petitioner

Vs.

1.The District Revenue Officer cum
Authorised Officer (Land Acquisition)
Perambalur District.

2.Union of India,
Rep. by its Secretary to Government,
Ministry of Shipping,
Road, Transport and Highways,
South Block, New Delhi.

3.The Project Director,
National Highways Authority of India,
(Ministry of Shipping, Road Transport
and Highways),
O/o.The Project Director, P.J.,
New No.6, Old No.44, First Floor,
III Main Road, Ponnagar,
Tiruchirapalli.

(Respondents 2 and 3 impleaded as
per the order of this Court dated
27.07.2018 in M.P.No.1 of 2008
in W.P.No.32824 of 2007)

... Respondents

Prayer:Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the respondent pertaining to his proceedings in Na.Ka.M.2/41240/2006 dated 25.09.2007, quash the same and consequently direct the respondent to pay compensation to the petitioner.

For Petitioner : Mr.P.Valliappan
For Respondents : Mr.K.Ravikumar for R1
Additional Government Pleader
M/s.P.Wilson Associates for R2 and R3

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records of the respondent pertaining to his proceedings in Na.Ka.M.2/41240/2006 dated 25.09.2007, to quash the same and to consequently direct the respondent to pay compensation to the petitioner.

2.It is the case of the petitioner that originally an extent of 3 cents comprised in S.No.240/17A of Padlur Village, Kunnam Taluk, Perambalur District was a poromboke and occupied by his father. After his death, the petitioner is in exclusive possession of the same and on 08.02.1979, house site patta was issued in respect of the said property. Thereafter, the petitioner obtained a loan and is also paying all the statutory dues. Whiles, the respondent issued notice under Section 9(2) of the Tamilnadu Act 8 of 1923 for acquiring the property for the purpose of widening the road.

3.It is the further case of the petitioner that since the boundaries were not correctly fixed, he filed suit in O.S.No.21 of 2005 before the District Munsif Court at Perambalur for mandatory injunction and an exparte decree was passed on 02.09.2005. Even thereafter, the boundaries were not fixed. The petitioner in this regard also sent representation to the respondent on 25.01.2005. Since no order was passed on the said representation, he filed writ petition in W.P.No.29353 of 2006 and this Court on 31.08.2006, directed the first respondent therein to consider his representation and to dispose of the same. Whiles, the first respondent issued a show cause notice dated 29.12.2006 alleging violation of the assignment conditions and called upon the petitioner to give explanation as to why the same should not be cancelled.

4.It is the further case of the petitioner that the petitioner gave his objections for the said show cause notice. However, the first respondent vide the impugned proceedings dated 25.09.2007 cancelled the patta dated 08.02.1979. Hence, the petitioner has come forward with this petition.

5.The learned counsel appearing for the petitioner would submit that the petitioner has been in continuous possession and

enjoyment of the property. The petitioner obtained patta for the property from the Revenue Authorities. Thereafter, he obtained loan from the Nationalized Bank and constructed house and is residing there. However, without considering all these facts, the first respondent has cancelled the patta which is non est in law. Accordingly, he prayed for allowing the writ petition.

6.The first respondent has filed counter stating that originally 110sq.mts. of natham poramboke in S.F.No.240/17A of Padalur (West) Village was encroached by the petitioner and on his application, the then Perambalur Taluk Tahsildar issued house site patta on 08.02.1979. As per the Rule in B.S.O.21, the Government servants are not eligible to get house site patta free of cost. The petitioner entered into Government service on 11.07.1977, however, he falsely stated that he is a 'navithar' and hence, the then Perambalur Taluk Tahsildar issued house site patta in his favour. Now the Village comes under Kunnam Taluk and due to the widening of NH road, land acquisition process is going on.

7.The counter further states that Notification under Section 3A(1) of N.H.Act was approved by the Central Government and published in the Gazette of India No.485 dated 27.05.2004 in S.O.No.634E. It was also published in two local dailies and vide proceedings of the Perambalur District Revenue Officer dated 30.08.2006 award was also passed for compensation. However, the petitioner in order to delay the process refused to accept the compensation and filed original suit. The petitioner also filed writ petition before this Court and this Court vide order dated 31.08.2006 directed to dispose of the petitioner's representation.

8.The counter further states that based on the direction of this Court, the District Revenue Officer, Perambalur conducted inquiry about the matter and the petitioner also attended the inquiry and submitted his explanations. During inquiry, the District Revenue Officer, Perambalur came to know that the petitioner got house site assignment free of cost and since he was a Government servant cancelled the assignment.

9.Heard the arguments advanced on either side and perused the materials available on record.

10.No Government servant is entitled to get free house site patta from the Government. Admittedly the petitioner entered into Government service on 11.7.1977. Thereafter he applied Thasildhar for free house site under land less poor (Navithar) quota. Based on the false declaration the then Thasildhar granted house site patta on 8.2.1979. In view of the above, I

do not find any merit in the writ petition.

11.The writ petition is accordingly dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

1.The District Revenue Officer cum
Authorised Officer (Land Acquisition)
Perambalur District.

2.Union of India,
Rep. by its Secretary to Government,
Ministry of Shipping,
Road, Transport and Highways,
South Block, New Delhi.

3.The Project Director,
National Highways Authority of India,
(Ministry of Shipping, Road Transport
and Highways),
O/o.The Project Director, P.J.,
New No.6, Old No.44, First Floor,
III Main Road, Ponnagar,
Tiruchirapalli.

+1cc to Mr.P.Valliappan, Advocate, S.R.No.53050

+1cc to Mr.P.Wilson Associates, Advocate, S.R.No.53149

+1cc to the Government Pleader, S.R.No.53977

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KS(CO)
GSP(07/09/2018)