



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.03.2018

CORAM:

**THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA**

**W.A(MD)No.388 of 2018
and
C.M.P(MD)No.2407 of 2018**

M.Sree Devi

... Appellant/Petitioner

Vs.

1. The District Collector,
Kanyakumari District,
at Nagercoil.

2. The Tahsildar,
Kalkulam Taluk,
Thuckalay,
Kanyakumari District.

3.C.Santhabai

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent against the order, dated 09.09.2015 made in W.P(MD)No.8995 of 2007, on the file of this Court.

Prayer in WP(MD). 8995/ 2007 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari, calling for the records pertaining to the allotment order of the 2nd respondent in order No. B3/17282/06 dated 15.3.2007 allotting the property Survey No.847/40 Kalkulam Village, Kalkulam Taluk, Kanyakumari District to the 3rd respondent under the allotment of land to the Landless Poor Special scheme.

For Appellant

: Mr.C.K.M.Appaji

For RR 1 & 2

: Mr.A.K.Baskara Pandian,
Special Government Pleader.

**JUDGMENT**

(Judgment of the Court was delivered by

M. SATHYANARAYANAN, J.)

The writ petitioner is the appellant and she made a challenge to the order of assignment of the second respondent, dated 15.03.2007 in favour of the third respondent in W.P(MD) No.8995 of 2007.

2.The said writ petition came to be dismissed, vide impugned order, dated 09.09.2015, by observing that since the land is a poramboke land, as a matter of right, the appellant/writ petitioner cannot have any vested right and that against the contesting respondent, having been dismissed, finding no more, dismissed the writ petition.

3.The learned counsel appearing for the appellant has invited the attention of this Court to the order, dated 17.08.2007 made in W.P(MD)No.6812 of 2007, filed by the appellant and would submit that though this Court directed the first respondent/District Collector to dispose of the appeal, dated 21.07.2006 filed by the appellant, within a period of one month from the date of receipt of a copy of this order and also directed the said official not to allot the property to anybody till the disposal of the appeal, the first respondent, vide impugned order, dated 15.03.2007, has allotted the lands in favour of the third respondent and therefore, prays for interference.

4.Per contra, the learned Special Government Pleader, appearing for the respondents 1 and 2, has also pointed out that the appellant has to state about something in the appeal said to have been preferred by her on 21.07.2006 and the affidavit filed in support of the writ petition has also lack the said material and relevant particular and would further add that the learned Judge, having found that the writ petition lacks to maintain subsistence, rightly dismissed the said writ petition and prays for dismissal of the Writ Appeal.

5.This Court has considered the rival submissions and perused the materials placed on record.

6.It is not in serious dispute that the land is classified as a poramboke land and the said aspect has also been taken into account in the impugned order and therefore, the appellant cannot claim any vested right for allotment of a poramboke land in her favour. It was also pointed out in the impugned order, dated 09.09.2015 in W.P(MD)No.8995 of 2007, that against the contesting respondent came to be dismissed for default on the ground that <https://hcservices.courts.gov.in/hcservices> has not been taken and that apart, the fact and stage of the appeal have not been indicated in the affidavit filed in support of the writ petition.



7. In the considered opinion of this Court, since the appellant does not have any legally vested right, the prayer sought for by the appellant cannot be granted and the learned Judge has rightly taken note of the factual position and correctly arrived at the conclusion and dismissed the writ petition.

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8. This Court, on an independent application of mind to the entire materials placed on record, is of the considered view that there is no infirmity or error apparent in the reasons assigned for dismissing the writ petition.

9. In the result, this Writ Appeal is dismissed, confirming the order, dated 09.09.2015 passed in W.P(MD)No.8995 of 2007. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Kanyakumari District,
at Nagercoil.

2. The Tahsildar,
Kalkulam Taluk,
Thuckalay,
Kanyakumari District.

+ 1 cc TO Mr.C.K.M.Appaji , Advocate in SR No. 58060
+ 1 cc TO The Special Government Pleader in SR No. 58385

ps

AE/KK/SAR4/10.04.2018/3P/5C

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