BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **20.11.2019**
CORAM:
THE HONOURABLE **MR.JUSTICE M.SUNDAR**
W.P.(MD)No.5615 of 2011
and
M.P.(MD)Nos.1 and 2 of 2011

K.Prema ... Petitioner

Vs.

1.The District Collector,
Tirunelveli.

2.The Revenue Divisional Officer,
Tenkasi,
Tirunelveli District.

3.The Tahsildar,
Shenkottai,
Tirunelveli District. ... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari calling for the records pursuant to the impugned order A3/1124/2011, dated 15.02.2011 of the second respondent and quash the same insofar as the petitioner is concerned.

For Petitioner :Mr.K.M.Mohamed ALi
for Mr.T.S.Mohamed Mohideen

For Respondents : Mr.K.Mu.Muthu
Additional Government Pleader

ORDER

Mr.K.M.Mohamed Ali, representing Counsel on record for writ petitioner and Mr.K.Mu.Muthu, learned Additional Government Pleader on behalf of all the three respondents are before this Court.

2. With consent of learned Counsel on both sides, main writ petition is taken up, heard out and is being disposed of.

3. It is the case of the writ petitioner that he was given what is described as 2C patta. Before proceeding further, this Court is informed that 2C patta is a reference to some limited rights granted by the Tahsildar under Revenue Standing Order 18(2)(C). Under such a permission, the grantee does not have any rights over the trees and there are limited rights with regard to the usufructs alone. Ownership of the land and trees continue to be

with the Government. To be noted even with regard to trees that are wind fallen, the grantee has no rights.

4. This has been articulated in paragraph No.2 of the counter affidavit of the State and relevant portion of the same reads as follows:

> *'The fruit bearing trees standing on Government land can be assigned under tree tax system. As per the provisions of RSO 18(2)(C) the Tahsildar is the authority competent to issue grants of trees under Tree tax system. The Provisions of RSO 18(2)(b)(ii) says "the order of grant conveys to the grantee only the right to usufruct of the trees and is liable to be cancelled if the land is at any time assigned". The ownership of trees vest with the Government. The grantee has no right over the trees if they fall. The grant of tree tax system is normally given to the pattadars who possess cultivable lands near to the poramboke lands for safeguarding the trees only.'*

5. Another significant aspect is, learned State Counsel submits that the writ petitioner was put on notice and she refused to receive the notice. This has also been articulated in the counter affidavit. This factual assertion has not been disputed by writ petitioner by filing a re-joinder.

6. Furthermore, the impugned order refers to three other grantees, but there is nothing before this Court to demonstrate that the other three have assailed the impugned order.

7. Be that as it may, one peculiar fact / circumstance of this case is that the land which is subject matter of instant writ petition has since been converted qua use and house site pattas have also been issued to the landless poor. It is also averred that the writ petitioner was also considered, but was not entitled to such a patta under the landless poor category, as the writ petitioner's husband owns 4 Acres of land adjacent to the land, which is the subject matter of writ petition. Relevant portion of the counter affidavit reads as follows:

> *'Since House site pattas had to be given in this case, enquiry was conducted and order of grants of trees under tree tax system was cancelled and free house site pattas have been issued to landless poor people. It is submitted that the writ petitioner's husband Thiru.Kalaiyah possesses nearly 4 Acres of land in Sengottai Keelur Village. So the writ petitioner's family could not be considered as a poor family. House*

pattas were issued to landless poor people in S.No.967/2.'

8. To be noted, the counter affidavit also articulates that the above is for shelter and upliftment of economically weaker sections of the Society.

9. In the aforesaid backdrop and in the light of the peculiar facts and circumstances of the case, this Court is left with the considered view that the writ petitioner has not made out a case warranting interference qua impugned order. The Writ Petition fails and the same is dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are also dismissed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

SSL

To

1.The District Collector,
Tirunelveli.

2.The Revenue Divisional Officer,
Tenkasi,
Tirunelveli District.

3.The Tahsildar,
Shenkottai,
Tirunelveli District.

+1 CC to Mr.T.S. MOHAMED MOHIDHEEN, Advocate (SR-99761[F] dated 20/11/2019)

+1 CC to SPL GP (SR-100362[F] dated 21/11/2019)

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