

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2020

CORAM :

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.11079 of 2020

and

W.M.P.Nos.13485 & 13486 of 2020

Santhiya

...Petitioner

-Vs-

1. The Special Tahsildar,
Adi Dravidar Welfare Department,
Raja Badar Street,
Thirupattur District.
2. The Sub Collector
Thirupattur District 635 601.
3. The Thirupattur District Adi Dravidar and
Tribal Welfare Officer,
Office of the Thirupattur Adi Dravidar and
Tribal Welfare Department (PO)
Thirupattur.
4. The District Collector,
The Office of the District Collector,
Old BDO Office, Krishnagiri Main Road,
Thirupattur - 635 602.
5. Commissioner and Secretary,
The Govt of Tamilnadu,
Department of Adi Dravidar and Tribal Welfare
Secretariat,
Chennai - 600 009.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to quash the order passed by the 3rd respondent in Na.Ka.K8/279/2020 2020 dated nil of June 2020 on the file of the 3rd respondent and thereby direct the respondents to issue the patta in favour of the petitioner for the 2 cents of land situated in Plot No.47 at Kathirimangalam Village, Thirupattur Taluk and District comprised in Survey No.54/1A, 3B, 3A, 4 out of total land measuring acre 1.77 cents patta land acquired

under Adi Dravidar Scheme and Distribution of free patta for Adi Dravidar community.

For Petitioner : Mr.M.Sunil Kumar
For Respondents : Mr.Arul Doss
Government Advocate

O R D E R

On consent given by either side, the main writ petition itself has been taken up for final hearing.

2.The case of the petitioner is that she belongs to Hindu Adi Dravida community. She had applied for allotment of land under the Adi Dravida and Tribal Welfare Scheme before the first respondent. The first respondent by proceedings dated 01.02.2019, had allotted certain plots in favour of seven persons and the petitioner is one of the allottee for Plot No.47. The grievance of the petitioner is that the third respondent, even without issuing any notice, has straight away cancelled the patta issued in favour of the petitioner. Aggrieved by the same, the present writ petition has been filed before this Court.

3.Learned counsel for the petitioner submitted that the third respondent, after specifically finding that the patta was issued for Plot Nos.43 to 49, has erroneously concluded that it was an unauthorised patta that was given for a common area. Learned counsel further submitted that if the petitioner had been given an opportunity, the petitioner could have put forth her claim and even if an extreme case of unauthorised grant of patta is found in the facts of the case, the petitioner at least could have requested for the allotment of some other alternative plot. This opportunity has been completely taken away since the third respondent has proceeded to pass the impugned order without affording any opportunity.

4.Mr.Arul Doss, learned Government Advocate appearing on behalf of the respondents, submitted that the places that were identified for grant of patta to seven persons including the petitioner, is a common area and the patta has been issued illegally to the petitioner and others. Learned counsel submitted that, immediately on coming to know about the same, the third respondent had taken action and had cancelled all the illegal pattas by virtue of an order passed on 05.06.2020. Learned counsel therefore submitted that there is absolutely no ground to interfere with the impugned order passed by the third respondent and prayed for the dismissal of the writ petition.

5.This Court has carefully considered the submissions made on either side and the materials available on record.

6.The plot was allotted to the petitioner by the first respondent through proceedings dated 01.02.2019. Seven plots were identified and the petitioner was allotted Plot No.47. Towards allotment of the said plots, a patta was issued in favour of the petitioner. The petitioner was also taking steps to get the necessary permission for construction of the house. The petitioner, all of a sudden, received the impugned order from the third respondent informing her that the patta has been cancelled since it has been given for a place which has been identified as common area.

7.The third respondent could have issued notice to the petitioner before passing the order since the petitioner was under the impression that she has the Patta for the said plot and she was taking steps to put up construction. If at all the patta was issued for a common area, the petitioner would have at least asked for allotment of some alternative plot. In any case, the order should not have been passed behind the back of the petitioner.

8.In view of the above discussion, the order issued by the third respondent dated 05.06.2020 shall be considered as a show cause notice. The petitioner is directed to give her reply to the show cause notice and take a stand. The third respondent, on receipt of the reply from the petitioner, shall thereafter proceed to pass an order strictly in accordance with law. The petitioner is directed to give reply to the third respondent within a period of two weeks from the date of receipt of a copy of this order. The third respondent, on receipt of the reply, shall pass orders within a period of six weeks thereafter. Till final orders are passed, status quo as on today shall be maintained.

9.The writ petition is disposed of with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Special Tahsildar,
Adi Dravidar Welfare Department,
Raja Badar Street,
Thirupattur District.
2. The Sub-Collector,
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Tribal Welfare Officer,
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+1cc to the Government Pleader in Sr.28042

W.P.No.11079 of 2020

SSV (CO)
RV (08/09/2020)

सत्यमेव जयते

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