



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD)No.11319 of 2011

and

M.P(MD)Nos.3 & 4 of 2011

WEB COPY

1.Kothai Malarvizhi

2.S.Murugammal

... Petitioners

Vs.

1.The District Collector,
Dindigul District,
Dindigul.

2.The District Revenue Officer,
Dindigul District,
Dindigul.

3.The Special Tahsildar,
District Adi-Dravidar Welfare Office (Unit - 2),
Office at Pazhani,
Dindigul District,
Dindigul.

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.19732/2010/H2 dated 26.11.2010 on the file of the second respondent and quash the same as illegal and consequently direct the third respondent to provide patta to the petitioners in Plot No.22 in Survey No.191 and in Plot No.90 in Survey No.190 at Pudhu Colony, Lakkaiyan Kottai Village, Ottanchatram Taluk, Dindigul District respectively.

For Petitioners	: Mr.T.Lajapathi Roy
For Respondents	: Mr.V.Anand, Government Advocate.

ORDER

The petitioners have filed the present Writ Petition to issue a Writ of Certiorarified Mandamus, to quash the impugned order passed by the second respondent in Na.Ka.No.19732/2010/H2 dated 26.11.2010 and consequently, to direct the third respondent to provide patta to the petitioners in Plot No.22 in Survey No.191 and in Plot No.90 in Survey No.190 at Pudhu Colony, Lakkaiyan Kottai Village, Othanchatram Taluk, Dindigul District



2. According to the petitioners, they belonged to Scheduled Caste Community. In the year 2000-2001, the third respondent has provided free house sites to the members of 160 Adi-Dravida peoples to an extent of 3 cents for each beneficiaries in Survey Nos.190, 191 and 192 in Lakkaiyankottai Village, Ottanchathram Taluk, Dindigul District and the third respondent has provided patta to the petitioners to an extent of 3 cents in Plot Nos.22 and 90 in Survey Nos.190 and 191 respectively. Subsequently, the petitioners have constructed small thatched house and paid house tax to the revenue officials and they are in possession and enjoyment of the house till date. In the above said circumstances, the second respondent has passed an impugned order dated 26.11.2010, cancelling the patta granted in favour of the petitioners on the ground that the first petitioner has not resided in the house and the second petitioner has sold the house to another person. Challenging the impugned order passed by the second respondent dated 26.11.2010, the petitioners are before this Court.

3. The learned counsel appearing for the petitioner submitted that the third respondent has assigned free house site patta to the petitioners on 20.12.2000 and one of the conditions is that the petitioners have to construct the house within a year and the petitioners have constructed the house and the Panchayat has also issued the house tax receipt to the petitioners. The second respondent, without providing an opportunity to the petitioners, suddenly passed the impugned order by cancelling the patta granted in favour of the petitioners. The learned counsel appearing for the petitioner further submitted that the second respondent has violated the principles of *Audi alteram partem* and on that ground, the impugned order passed by the second respondent has to be set aside. The learned counsel appearing for the petitioners further submitted that the petitioners shall place all the relevant documents before the authority for re-considering the impugned order passed by the second respondent.

4. Based on the counter-affidavit filed by the respondents, the learned Government Advocate appearing for the respondents submitted that the third respondent had inspected the property on 10.09.2009 and found that the petitioners have not constructed the house. Therefore, notices have been sent to the petitioners through the Village Administrative Officer and the Village Administrative Officer has reported that the first respondent was not residing in the Village and the whereabouts not known and the second petitioner sold the site without obtaining permission. Therefore, the impugned order has been by the second respondent.

5. Heard the learned counsel appearing for the petitioner



and the learned Government Advocate appearing for the respondents.

6. On perusal of the impugned order and the statement made in the counter-affidavit, it is seen that the second respondent has not provided sufficient opportunity to the petitioners to place the documents. Therefore the second respondent has violated the principles of *Audi alteram partem* nor provided an opportunity to the petitioners before cancelling the said order.

7. In view of the above facts and circumstances, the impugned order dated 26.11.2010 passed by the second respondent is quashed and the matter is remitted back to the second respondent to consider afresh and pass appropriate orders as expeditiously as possible within a period of six months. It is made clear that the petitioners shall appear before the second respondent at the time of enquiry.

8. With the above observation, the Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

Note:- In view of the present lock down owing to COVID - 19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

Ps

To

1. The District Collector,
Dindigul District,
Dindigul.

2. The District Revenue Officer,
Dindigul District,
Dindigul.



3.The Special Tahsildar,
District Adi-Dravidar Welfare Office (Unit - 2),
Office at Pazhani,
Dindigul District,
Dindigul.

+1 CC to SGP (SR-13451[F] dated 31/07/2020)

Order made in
W.P.(MD)No.11319 of 2011
Dated:
29.07.2020

KM (06.08.2020) 4P 5C