



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD)No.13192 of 2011

T.Shanmugakani

... Petitioner

Vs.

1.State of Tamil Nadu rep. Through,
The Secretary to Government,
Backward Class and Most Backward Class
and Minority Welfare Department,
Chennai - 9.

2.The District Collector,
Madurai District.

3.The Special Tahsildar cum District Backward Class
Minorities Welfare Officer,
Collectorate Premises,
Madurai - 20.

4.The Tahsildar,
Madurai South Taluk,
Madurai.

... 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 entire records pertaining to the impugned order passed by the third respondent in Na.Ka.No.Bn.2.99908.05 dated 22.02.2006 set aside the same as illegal and consequently direct the respondents to survey the Survey No.27-1, 21-1, 27-2, 27-4, 27-5, 27-3A, 3B and 3C and earmark the boundaries of Plot No.522 by entrusting the possession of the plot to the petitioner.

For Petitioner	: Mr.C.M.Arumugam
For Respondents	: Mr.C.M.Mari Chelliah Prabhu, Additional Government Pleader.

ORDER

The petitioner has filed the present Writ Petition to issue a Writ of Certiorarified Mandamus, to quash the impugned order passed by the third respondent in Na.Ka.No.Bn.2.99908.05 dated 22.02.2006 and consequently direct the respondents to survey the Survey Nos.27-1, 21-1, 27-2, 27-4, 27-5, 27-3A, 3B and 3C and earmark the boundaries of Plot No.522 by entrusting the possession of the plot to the petitioner.



2. According to the petitioner, by an order of the third respondent dated 09.06.1999, he along with several other persons have been given of a house site to an extent of 0.01.0 ares in Survey Nos.27/2, 27/6 along with some other numbers in Thottiyapatti Village, Madurai District and the petitioner was assigned with Plot No.522. In order to measure and earmark the plots, the petitioner sent a representation dated 12.11.2003 to the Chairman of the Tamil Nadu Legislative Assembly. In the meanwhile, the third respondent directed the petitioner to appear before him for enquiry on 04.02.2004 vide proceedings dated 29.01.2004. Though the petitioner appeared for enquiry, no steps have been taken. Hence, the petitioner again sent several representations to the respondents and he also sent a representation dated 25.04.2011 under the Right to Information Act to the third respondent. By letter dated 06.05.2011, the third respondent informed the petitioner that his assignment was cancelled on 22.02.2006. In pursuance of the letter dated 06.05.2011, the petitioner again approached the third respondent and sought for the cancellation of the order of assignment and he received the impugned cancellation order on 22.10.2011. In the cancellation order of assignment, the petitioner came to know that the assignment was cancelled, as if the petitioner did not make any construction in the plot. Challenging the impugned order passed by the third respondent, the petitioner has filed the present Writ Petition.

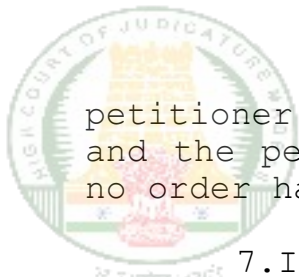
3. The learned counsel appearing for the petitioner submitted that the impugned cancellation order of assignment passed by the third respondent is without jurisdiction and without affording an opportunity of hearing to the petitioner, the impugned order has been passed. Hence, the impugned order is liable to be set aside.

4. In the counter-affidavit filed by the third respondent, it is stated that the said plot has been handed over to the petitioner in the year 1999 itself and there were some objections from the Villagers of Thottiyapatti and the same was resolved amicably and time was given to the petitioner to complete the construction. Since the petitioner has not completed the same, the impugned order has been passed.

5. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

6. The grievance of the petitioner is that he made a representation on 12.11.2003 to the complaint committee of the Tamil Nadu Legislative Assembly and the copy has been addressed to the District Madurai, but on perusal of the typedset of papers, it is seen that the petitioner has not enclosed the acknowledgment proof and other subsequent corresponding by the District Collector. By

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petitioner to appear before him for enquiry to be held on 04.02.2004 and the petitioner has also appeared on the said date. Thereafter, no order has been passed.

7. In the light of the aforesaid fact and considering the submissions made by the learned counsel appearing on either side and on perusal of the materials available on record, it is seen that pursuant to the assignment order, the petitioner made a representation dated 12.11.2003 to the Tamil Nadu Legislative Assembly and the copy has been marked to the District Collector and other authorities, but there is no decision taken by the District Collector for the said representation. Thereafter, the third respondent on 29.01.2004, directed the petitioner to appear for enquiry on 04.02.2004 and on the said date, he has also produced the relevant documents.

8. It is also brought to the notice of this Court that the petitioner has challenged the impugned order with a delay. Even though there is a delay in challenging the impugned order, considering the subsequent developments made by the authority directing the petitioner to appear for enquiry, this Court is of the view that since no order has been passed by the respondents, in the interest of justice, a direction can be issued to the third respondent.

9. Considering the above facts and circumstances, the third respondent is directed to conduct enquiry based on the representation of the petitioner dated 12.11.2003 and pass appropriate orders on merits and in accordance with law, after affording an opportunity of hearing to the petitioner, within a period of six months from the date of receipt of a copy of this order. It is also made clear that the petitioner shall produce all the relevant documents, as required by the third respondent.

10. With the above direction, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

ps

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 /

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 - 4.The Tahsildar,
Madurai South Taluk,
Madurai.
- +1 CC to M/s.GP (SR-13372[F] dated 30/07/2020)

Order made in
W.P. (MD) No.13192 of 2011
Dated:
29.07.2020

AP(13/08/2020) 4P 6C