



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.09.2020

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THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

W.P(MD).No.7115 of 2020
and W.M.P.(MD).No.6557of 2020

M.Malliga

.. Petitioner

Vs.

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Tahsildar,
Ambasamudram Taluk,
Tirunelveli District.

3.Special Officer/Block Development Officer,
Ambasamudram Panchayat Union,
Tirunelveli District.

4.K.Karpagavalli

.. Respondents

(R4 impleaded wide Court order dated 14.08.2020 in W.M.P.(MD).
No.7777 of 2020.)

PRAYER: Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Certiorarified Mandamus calling for records relating to the impugned notice of the 2nd respondent in Na.Ka.A2/2071/2020, dated .. . 06.2020 singed on 04.052020 and quash the same and consequently forbear the respondents from interfering with the free house site assignment of Plot No.33, situated in S.No.132/3 at Sivanthipuram Village, Ambasamudram Taluk, Tirunelveli District.

For Petitioner : Mr.P.P.Alwin Balan

For Respondents : Mrs.S.Srimathy for R1 & R2
Special Government Pleader



ORDER

Heard the learned counsel for the writ petitioner, the learned Special Government Pleader appearing for the respondents 1 and 2, the learned counsel appearing for the third respondent and the learned counsel for the fourth respondent.

2.The petitioner belongs to backward community. She was given free assignment of land vide order dated 24.08.2018 issued by the Tahsildar. The said assignment is sought to be cancelled by the impugned order dated 04.05.2020. The same is put to challenge in this writ petition.

3.The petitioner's counsel pointed out that the Tahsildar, Ambasamudram, cannot have any jurisdiction to issue the impugned proceedings. He would draw my attention to R.S.O.21(3) and point out that it is only the Revenue Divisional Officer who can cancel the assignment. I am satisfied with the said submission.

4.The second respondent has initiated the cancellation proceedings, on the ground that even though in the assignment order a condition was incorporated that the petitioner should construct the house within a period of 6 months, she has not done so.

5.The petitioner's counsel pointed out that the petitioner cannot straight away commence the construction. The petitioner will have to get approval from the concerned authority. In the case on hand, the petitioner had already applied for permission to put up construction. The third respondent has however not granted any approval so far. Therefore, the petitioner cannot be blamed for not complying with the condition. It is not as if the petitioner had not applied for approval or even after getting approval, the petitioner has not made the construction. Neither is the case here. Therefore, the very terms on which the impugned notice is anchored are inherently unreasonable. The impugned proceedings stand quashed.

6.At this stage, the learned counsel for the impleaded respondent states that the petitioner is one among the 58 beneficiaries and that all the beneficiaries have surrendered their assigned lands so that the Slum Clearance Board can construct houses and give them. According to the impleaded respondent, because of the obstructive attitude of the petitioner, the construction of apartments could not take place.

7.The petitioner's counsel rejects those allegation and states that the petitioner, if directly approached by the Housing Board, would definitely sail along with others and co-operate for the completion of the Project.



8.I Place on record this submission. The writ petition stands allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

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// True Copy //

Sd/-

Assistant Registrar (CS-II)

/ /2020

Sub Assistant Registrar(CS)

TM

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.

To

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Tahsildar,
Ambasamudram Taluk,
Tirunelveli District.

+1 CC to Mr.P.P.ALWIN BALAN, Advocate SR-15865.

+1 CC to the Spl GP SR-15936, SR-16088.

W.P (MD) .No.7115 of 2020

02.09.2020

CS(16.09.2020) 3P 5C