



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE N. KIRUBAKARAN

AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P. (MD)No.9694 of 2020

and W.M.P. (MD) No.8701 of 2020

WEB COPY

K.Raja

... Petitioner

Vs.

1. The Revenue Divisional Officer (RDO),
Sivagangai,
Sivagangai District.
2. The Tahsildar,
Kalaiyarkovil,
Sivagangai District.
3. The District Collector,
Sivagangai District.
(R3 Suomotu impleaded vide Court order
dated 11.09.2020 in WP(MD)No.9694/2020)
4. The Secretary to Government,
Revenue Department,
Fort St. George,
Chennai - 600 009.
5. The Secretary to Government,
Social Welfare Department,
Fort St. George,
Chennai - 600 009.
6. The Director of Vigilance and
Anti Corruption Wing,
No.293, MKN Road, Alandur,
Chennai - 600 016.
(R4 to R6 are Suomotu impleaded vide Court order
dated 09.11.2020 in WP(MD)No.9694/2020)

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, to forbear the respondents from evicting the petitioner in S.No.197/13 at Palluvor Village, Silukkapatti Group, Kalaiyarkovil Taluk, Sivagangai District and consequently, direct the 2nd respondent to issue assignment order on payment of cost in favour of the



For Petitioner : Mr.Prabhu Rajadurai
For Respondents : Mr.K.Chellapandian,
Additional Advocate General
assisted by Mr.M.Muthugeethaiyan,
Special Government Pleader

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ORDER

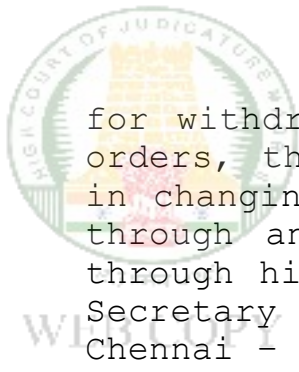
[Order of the Court was made by **B.PUGALENDHI, J.**]

This writ petition is filed, seeking for the issuance of a Writ of Mandamus, forbearing the respondents 1 and 2 from evicting the petitioner from Survey No.197/13 at Palluvoor Village, Silukkapatti Group, Kalaiyarkovil Taluk, Sivagangai District and for a consequential direction to issue assignment order on payment of cost in favour of the petitioner.

2. The main grievance of the petitioner is that though he was granted with an assignment of particular extent of land in Survey No.197/13 at Palluvoor Village, Silukkapatti Group, Kalaiyarkovil Taluk, Sivagangai District, the respondents 1 and 2 are attempting to dispossess him. In support the same, the petitioner also enclosed the orders of assignment in favour of his sons and daughter, granted by the Tahsildar, Kalayarkovil, by letter, dated 15.10.2015. In order to ascertain as to how three members of the same family have been granted with assignments, this Court directed the learned Special Government Pleader appearing for the official respondents to get instructions.

3. The learned Special Government Pleader appearing for the official respondents placed a written instruction from the respondents 1 and 2 that the writ petitioner, a Graduate Teacher in Panchayat Union Middle School, Mudikarai, Sivagangai District, has obtained assignment of house site admeasuring 0.01.60 Ares in survey Nos.197/17, 1971/13 (part), 197/18, 1971/13(part) and 197/19 and 197/13 (part) in the name of his sons and daughter and also obtained assignments for two other family members. After these instructions, the writ petitioner sought permission to withdraw the writ petition and the same was declined by this Court, by order dated 11.09.2020 and this Court *suo motu* impleaded the District Collector, Sivagangai, as 3rd respondent and directed for appearance of respondents 1 to 3. Thereafter, the petitioner through the present counsel, namely, Mr.M.Sekar filed change of vakalat on 11.10.2020, along with a letter to withdraw the said writ petition.

4. Based on the letter circulated by the learned counsel for the petitioner dated 15.10.2020, the writ petition was listed under the caption "For Withdrawal" on 09.11.2020. On that day, Mr.K.Chellapandian, learned Additional Advocate General, opposed



for withdrawing the writ petition and after perusing the earlier orders, this Court, by considering the conduct of the petitioner in changing the counsel and circulating a letter "for withdrawal" through another counsel, refused the request of the petitioner, through his counsel for withdrawal and *suo motu* impleaded (i) the Secretary to the Government, Revenue Department, Fort St. George, Chennai - 600 009, the Secretary to the Government, Social Welfare Department, Fort St. George, Chennai - 600 009 and the Director of Vigilance and Anti-Corruption Wing, No.293, MKN Road, Alandur, Chennai - 600 016, as respondents 4 to 6 and directed the 6th respondent/the Director of Vigilance and Anti-Corruption to conduct a preliminary enquiry on these three assignment of lands and file a report.

5. The assignment of house site is with an intention to provide certain benefits to the landless poor people, who have no assured means of livelihood and that has been misused by this petitioner and managed to get assignment of Government lands in his name and also in the name of his family members. The report of the Director of Vigilance and Anti-corruption reveals that the petitioner has obtained free house site pattas in his name and also in his family members. The details of house site patta in the name of the petitioner's family members are as follows:

(i) In the name of Neelaveni, who is the daughter of the petitioner, a free Government House patta, to an extent of 0.0160 in Survey No.197/17 and 197/13P was obtained from the Tahsildar, Kalaiyarkovil Taluk, vide his proceedings in V.Ma.O.No.A2/195/1525, dated 15.10.2015.

(ii) In the name of Ajandan, who is the son of the petitioner, a free Government House patta, to an extent of 0.0160 in Survey No.197/18 and 197/13P was obtained from the Tahsildar, Kalaiyarkovil Taluk, vide his proceedings in V.Ma.O.No.A2/196/1525, dated 15.10.2015.

(iii) In the name of Dr.Mutharasan, who is the son of the petitioner, a free Government House patta, to an extent of 0.0160 in Survey No.197/19 and 197/13P was obtained from the Tahsildar, Kalaiyarkovil Taluk, vide his proceedings in V.Ma.O.No.A2/197/1525, dated 15.10.2015.

(iv) In the name of Panchavarnam, who is the second wife of the petitioner, a free Government House patta, to an extent of 0.0160 in Survey No.197/20 and 197/13P was obtained from the Tahsildar, Kalaiyarkovil Taluk, vide his proceedings in V.Ma.O.No.A2/198/1525, dated 15.10.2015.

(v) In the name of Rajeswari, who is the first wife of the petitioner, a free Government House patta, to an extent of 0.0160 in Survey No.197/21 and 197/13P was obtained from the Tahsildar, Kalaiyarkovil Taluk, vide his proceedings in V.Ma.O.No.A2/199/1525, dated 15.10.2015.



6. As per the Revenue Standing Orders, the maximum extent that could be assigned to any applicant for a free house site shall be 1.25 ares and whose family's income shall not exceed Rs.30,000/- per annum. Therefore, there can be an assignment only up to 3 cents. But, in this case, the assignment of patta for all five members of the petitioner's family were issued with four cents and this petitioner also is said to be having a house worth about Rs.1 crore.

7. The petitioner Raja is a Government Servant working as a Graduate Teacher in a Panchayat Union Middle School, Mudikkarai, Sivagangai District. His son Dr.Muthuarasan is working as Assistant Surgeon, Primary Health Centre, V.Pudur, Sivagangai District. The petitioner's mother, Muthulakshmi, was also a Government employee and retired in the year 1998. The petitioner's second son, Ajandhan, is currently doing Medical course in an University at China. The petitioner's daughter, Neelaveni, has also cleared NEET Examination and waiting for a place in Medical course. For obtaining a free patta, an eligible candidate must present application to the Tahsildar and the same has to be verified through the Village Administrative Officer, Revenue Inspector, Frika Surveyor and Zonal Deputy Tahsildar, on the eligibility of the applicant for fresh patta and thereafter, the patta has been considered depending upon their eligibility. But, in this case, the pattas were issued by one Mr.K.Mahendran/Tahsildar, Kalayarkovil on 15.10.2015 without an application and without any verification. The Deputy Superintendent of Police, Vigilance and Anti corruption, Sivagangai, in his report, further stated that the entries are available only with regard to the above free pattas, only with the office of the Village Administrative Officer, Silukkupatti Group, Kalaiyarkovil Taluk, Sivagangai District and there is no corresponding entries available or maintained in the office of the Tahsildar, Kalayarkovil.

8. It appears that after this Court took cognizance of the issue, the writ petitioner, his son, namely, Dr.Muthuarasan and the Tahsildar, Sivagangai, are placed under suspension and charge memos were also issued.

9. The available materials *prima facie* made out a case that the Tahsildar, Kalayarkovil Taluk, Sivagangai District, and the Village Administrative Officer, Silukkupatti Group, Kalaiyarkovil Taluk, Sivagangai District and the petitioner have committed an offence of criminal misconduct, dishonestly, fraudulently converting the Government property to ineligible persons.



10. In view of the above, this Court deems it fit to issue the following directions:

(i) the 6th respondent shall direct the Deputy Superintendent of Police, Vigilance and Anti-Corruption, Sivagangai, to register a case and proceed with an enquiry and to find out the persons, who are responsible for conversion of Government lands to ineligible persons.

(ii) the 4th respondent shall issue necessary instructions to the concerned officials to review all the assignment of Government lands and to ensure that only the eligible persons are the beneficiaries and necessary circulars have to be issued and reports have to be collected from the Village Administrative Officers and if any ineligible persons have also obtained assignment of Government lands, further course of actions need to be taken.

(iii) Since it is represented that patta has been issued in favour of Dr.Muthuarasan without his knowledge, his representation may be considered in two weeks and to take further action.

11. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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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 Revenue Divisional Officer (RDO),
Sivagangai,
Sivagangai District.



2. The Tahsildar,
Kalaiyarkovil,
Sivagangai District.

3. The District Collector,
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6. The Director of Vigilance and
Anti Corruption Wing,
No.293, MKN Road, Alandur,
Chennai - 600 016.

7. The Deputy Superintendent of Police,
Vigilance and Anticorruption,
Sivagangai.

+2 cc to Mr.G.Prabhu Rajadurai , Advocate SR.No.26354,27311

+1 cc to The Special Government Pleader Sr.No.27259

W.P. (MD)No.9694 of 2020
23.12.2020

KM (07.01.2021) 6P 11C