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W.P (MD) No.14677 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P (MD) No.14677 of 2020

Ayyalusamy

... Petitioner

Vs.

1.The District Collector,
Tuticorin District,
Tuticorin.

2.The Revenue Divisional Officer [RDO],
Kovilpatti,
Tuticorin District.

3.The Thasildar,
Ettaiyapuram Taluk,
Tuticorin District.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus, directing the respondents to remove the encroachment in Kumaragiri Kanmaai and nearby Government Poramboke Land in Survey No.209, 210, 214, 215 and 216 situated in Suraikaipatti Panchayat, Ettaiyapuram Taluk, Tuticorin District and consequently, to direct the respondents to restore the Cart Track to the village agriculturalist.

For Petitioner : Mr.P.Subbaraj
For Respondents : Mrs.J.Padmavathi Devi,
Special Government Pleader

ORDER

[Order of the Court was made by **N.KIRUBAKARAN, J.**]

The writ petition has been filed seeking a writ of mandamus, to direct the respondents to remove the encroachment in Kumaragiri Kanmaai and the nearby Government Poramboke land in Survey Nos.209, 210, 214, 215 and 216, situated in Suraikaipatti Panchayat, Ettaiyapuram Taluk, Tuticorin District and to restore the Cart Tack therein.

2.According to the petitioner, the lands comprised in Survey Nos.209, 210, 214, 215 and 216 is classified as Kanmai. However, the official respondents, under the Free Patta Scheme gave allotment of

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the said lands to 14 persons and also issued pattas to them. In this regard, the petitioner has already given a complaint on 04.11.2011, but, so far no action has been taken, which made the petitioner to approach this Court with the aforesaid prayer.

3. Heard Mr.P.Subbaraj, learned Counsel for the petitioner and Mr.J.Padmavathi Devi, learned Special Government Pleader appearing for the respondents.

4. A report has been filed by the 3rd respondent Tahsildar that under the Free Patta Scheme, the lands in Survey Nos.35/6, 214/6, 214/9, 216/3, 215/7, 215/4, 210/6, 210/7, 209/14, 210/3, 210/9, 210/10, 210/12, 210/5, 210/8 and 229/2015 have been allotted to 14 persons in the year 2006 and 2007. Based on the complaint of the petitioner, after enquiry it has been found that one S.Rajalakshmi and M.Pitchammal, who were allotted the land in Survey Nos.209/14 and 210/12 are having 3 acres of land and therefore, they are not entitled to get the benefit under the Free Patta Scheme. Similarly one K.Muthumanickam, who has been allotted with the land comprised in Survey No.215/4, to an extent of 0.46.0 hectares, has sold the said land to one Narayanasamy, through Sale Deed 2740/2018 and as such, there is a violation of conditions. Likewise, one Ramalakshmi has been allotted with 0.53.0 hectares of land in Survey No.229/15, but her husband Paulraj is working in Agricultural Producers and Marketing Co-operative Society and such an employment itself is a prohibition for availing the benefit under the scheme.

5. In view of the above findings, the 3rd respondent Tahsildar, has made recommendations to the Revenue Divisional Officer, Kovilpatti to cancel the allotment of the land and the pattas granted in favour of the above said persons.

6. The allotments of the lands were made as early as in the years 2006 and 2007, under the Free Patta Scheme to the beneficiaries. The petitioner, keeping quiet for all these years, has now approached this Court, which shows the *mala fide* intention on the part of the petitioner and therefore, this writ petition is not maintainable. However, taking into consideration the facts that the ineligible persons have availed the benefit, which is found by the 3rd respondent Tahsildar, vide his report, dated 28.07.2020 and the recommendations made therein to cancel the allotment and the pattas issued to the ineligible beneficiaries, it would be appropriate to dispose of this writ petition with a direction to the Revenue Divisional Officer, Kovilpatti, Tuticorin District / 2nd respondent to pass appropriate orders, cancelling the allotment orders and the pattas granted in favour of the ineligible persons, based on the report of the 3rd respondent, after giving notice to them, within a period of eight weeks from the date of receipt of a copy of this order.



7.This writ petition is disposed of with the above direction.
No costs.

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Sd/-

Assistant Registrar (CS-I)

/ /2020

Sub Assistant Registrar(CS)

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To

1.The District Collector,
Tuticorin District,
Tuticorin.

2.The Revenue Divisional Officer [RDO],
Kovilpatti,
Tuticorin District.

3.The Thasildar,
Ettaiyapuram Taluk,
Tuticorin District.

+1 CC to SPL GP (SR-20725[F] dated 29/10/2020)

+1 CC to Mr.P.SUBBARAJ, Advocate (SR-20678[F] dated 29/10/2020)

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28.10.2020

VB (26.11.2020) 3P 6C