



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.07.2021

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P(MD)No.10437 of 2021

WEB COPY

- 1.M.Malathi
- 2.S.Radhamani
- 3.P.Seethalakshmi
- 4.S.Muthulakshmi
- 5.V.Ariyanachi
- 6.A.Patchiammal
- 7.C.Janaki
- 8.M.Petchiammal
- 9.S.Vadivammal
- 10.B.Sathiya
- 11.M.Lakshmi
- 12.S.Petchiammal

... Petitioners

Vs.

1.The District Collector,
Collectorate,
Thoothukudi District.

2.The Additional District Collector,
O/o.Additional District Collector Office,
Thoothukudi District.

3.Revenue Divisional Officer,
Thoothukudi Revenue Divisional Office,
Thoothukudi District.

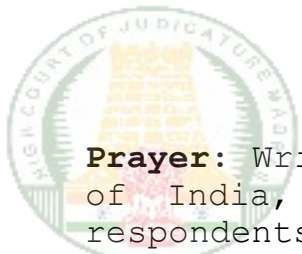
4. The Thasildar,
Thoothukudi Taluk Office,
Thoothukudi District.

5. The District Aadi Dravidar Welfare Officer,
O/o.District Aadi Dravidar Welfare Officer,
7A, PSP Nagar, Korampallam,
Thoothukudi District.-628 101.

6.The Special Tahsildar
Adi Dravidar Welfare,
Thoothukudi.

... Respondents

*** R6 is suo motu impleaded by order dated 14.07.2021 in WP(MD) .
No.10437/2021**



Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a writ of Mandamus, directing the respondents to provide free House Site Patta to the landless poor petitioners in S.No.491/2, Aalantha, Srivaikundam Taluk, Thoothukudi District in light of the proceedings in RC.No.AW7/32780/2017 dated 22.12.2017, passed by the Respondent No.5 by considering the representation dated 14.10.2020, within the time stipulated by this Court.

For Petitioner : Mr.I.Pinayagash
For Respondents : Mr.R.Suresh Kumar
Government Advocate

ORDER

The Special Tahsildar (Adi Dravidar Welfare), Thoothukudi, is *suo motu* impleaded in this writ petition as sixth respondent.

2. This writ petition has been filed for the issue of writ of mandamus directing the respondents to act on the representation made on 14.10.2020 wherein the petitioners have sought for free House Site Patta.

3. The case of the petitioners is that the subject property in S.No.491/2 measuring an extent of 4 acres and 30 cents was chosen for issuance of free House Site Patta to the landless poor. Accordingly, a layout was formed and the fourth respondent by proceedings dated 22.12.2017, approved the layout and directed the Special Tahsildar to identify landless poor and to issue patta to them. As per the lay out plan, there were totally 86 plots.

4. The grievance of the petitioners is that the respondents have already allotted 77 plots and the petitioners who are also landless poor had also submitted applications and were given to understand that they will be allotted Plot Nos.78 to 86. Since the allotment did not take place, the petitioners made a representation to the respondents on 14.10.2020 requesting for providing free House Site Patta for Plot Nos.78 to 86. Since the same was not considered, the present writ petition has been filed before this Court.

5. The Special Tahsildar (Adi Dravidar Welfare), Thoothukudi has filed a counter affidavit in this case. The relevant portions in the counter affidavit are extracted hereunder:

"3.The points which are vital to the case are furnished as follows:

(i) It is respectfully submitted that the extent of '1.23.0 hectares land has acquired in Survey No.491/2 of Aalantha Village, Srivaikundam Taluk, Thoothukudi for issuing house site patta



Adidravidar community under Tamilnadu' Government Welfare scheme.

(ii) It is respectfully submitted that a plan has been approved for accommodating 77 families of the particular community as a welfare measure and 1.23.0 Hectares of land have been earmarked for allotting house site and rest of the area that is, 0.18.0 hectares of land have been allotted for public utility place which is mandatory for approval of ally House site plan.

(iii) It is respectfully submitted that the free house site patta for 55 families have been issued by the Special Tahsilar (ADW), Thoothukudi in the Proceedings No.A/515/06, dated 12.03.07. Further, the rest of 22 families also got the free house site patta from the Special Tahsilar(ADW), Thoothukudi in proceedings No.A/515/06, dated 11.07.2017. As such, the approved 77 plots have been handed over to eligible families in the S.No. 491/2 of Aalantha Village, Srivaikundam Taluk, Thoothukudi District.

(iv) It is respectfully submitted that Veluthai who is Party Secretary of Aalantha Village, AIADMK, has submitted a representation before the 5th Respondent with request to allot free house site patta for 12 families. On scrutinize the requisition, the District Adi Dravidar Welfare Officer, Thoothukudi has approved further 09 plots Numbering from 78 to 86 in the proceedings No Aa.Na.7/32780/2017, dated 22.11.2017 and the 9 plots have been marked in the approved plan map in the place allotted for public utility in S.No 491/2 of Aalantha Village.

(v) It is respectfully submitted that on receipt of the proceedings and approved plan, the Tahsildar (ADW), Thoothukudi has inspected the site in S.No.491/2 for categorizing the eligibility of the 9 families as well as allotting plots to them on duly surveying the land. But, the families those who have already got allotment of plots, have made objections to allot the public utility land to other 09 families. The residents made quarrel with the Tahsildar (ADW), Thoothukudi and demanding that such public utility land should not be allotted as plots and further stressed that the lands are required to be utilized for constructing Ration Store, Library and Social Centre for the residents.

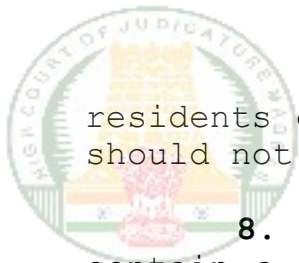


(vi) It is respectfully submitted that the Tahsildar (ADW), Thoothukudi has sent a detailed report in letter No.A/325/19, dated 20.02.2020 to District Adi Dravidar Welfare Officer, Thoothukudi about the issues raised by the residents. Further, he stated that the land allotted for public utility in the S.No.491/2 of Aalatha Village has to be spared for future utilization and if the public utility land has been allotted as plots, there will be a severe consequences in the residential area in future. Finally, the Tahsildar (ADW), Thoothukudi has requested to cancel the approved plan of 09 plots which were accommodated in the public utility place in S.No.491/2 of Aalantha Village. It is also submitted that the proposal submitted by the Tahsildar (ADW), Thoothukudi is being scrutinized for issuing cancellation of the 09 approved plots.

4. It is respectfully submitted that the averment of the Petitioner herein in the grounds paragraph(i)is denied as flawlessly false and imaginary as per tenets of law. It is submitted that the representation dated 14.10.2020 of the petitioners is in inquiry/consideration and the requisition of petitioners may not be acceptable at this juncture as providing free house sites in S.No.491/2 of Aalantha Village, Srivaikundam Thaluk, Thoothukudi District is nearly impossible for the reasons stated above. The Public utility place is inevitable portion of residential area and such areas must be spared for future activities of public utility."

6. Heard Mr.I.Pinaygash, learned counsel appearing for the petitioner and Mr.R.Suresh Kumar, learned Government Advocate appearing for the respondents.

7. There are no serious disputes on the facts of the present case. The petitioners were expecting that their applications are going to be considered and they are going to be issued with free House Site Patta in Plot Nos.78 to 86. A stand has now been taken to the effect that the plots from 78 to 86 has been marked in the place allotted for public utility. According to the respondents, the initial plan was approved only for accommodating 77 families in 77 plots and the plots were also handed over to the eligible homeless persons. Subsequently, an approval was granted for 9 more plots from Plot Nos.78 to 86 through proceedings dated 22.11.2017. The newly approved plots are said to have been marked in the place allotted for public utility. This allotment is now being opposed by the



residents on the ground that the land earmarked for public utility should not be allotted as plots.

8. In the considered view of this Court, every layout must contain a space specifically earmarked for public utility to ensure that the residents will get the facility to utilise the place as a social welfare centre or as a Library etc. In the present case, it has been stated in the counter affidavit that proceedings have already been initiated to cancel the 9 plots which were approved in the year 2017 since it was marked in a public utility space.

9. Under such circumstances, this Court cannot issue a writ of mandamus directing the respondents to accommodate the petitioners in the plots which are in the process of being cancelled since they are located in a public utility service area. The respondents have undertaken that the petitioners will be allotted plots in an alternate place since the respondents are not in a position to allot the plots in Plot Nos.78 to 86.

10. In view of the above discussion, this Court is not in a position to issue a direction as sought for by the petitioners. There shall be a direction to the impleaded sixth respondent to immediately identify an alternate place to allot a piece of land to the petitioners who are also landless poor. This process shall be completed by the sixth respondent within a period of six(6) months from the date of receipt of a copy of this order.

11. This writ petition is disposed of accordingly. No Costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PJL

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,
Collectorate,
Thoothukudi District.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Additional District Collector,
O/o.Additional District Collector Office,
Thoothukudi District.

3.Revenue Divisional Officer,
Thoothukudi Revenue Divisional Office,
Thoothukudi District.

4. The Thasildar,
Thoothukudi Taluk Office,
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7A, PSP Nagar, Korampallam,
Thoothukudi District.-628 101.

6.The Special Tahsildar
Adi Dravidar Welfare,
Thoothukudi.

+1 CC to M/s.SPL GP (SR-22671[F] dated 15/07/2021)

W.P (MD) No.10437 of 2021
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RK (03.08.2021) 6P 8C