



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.10.2021

CORAM

THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD)No.17801 of 2021

and

W.M.P. (MD) .Nos.14655, 14677 and 14678 of 2021

WEB COPY

1.Arulananthasamy
2.Metilta Rai Amalakarpam ... Petitioners

Vs.

1.The Additional Chief Secretary and
Commissioner of Revenue Administration and
Commissioner of Land Administration,
Chepauk, Chennai-600 005.

2.The District Revenue Officer,
Sivagangai District.

3.The Revenue Divisional Officer,
Devakottai, Sivagangai District.

4.The Tahsildar,
Thirupattur, Sivagangai District.

5.Bhakkiya Mohammed ... Respondents

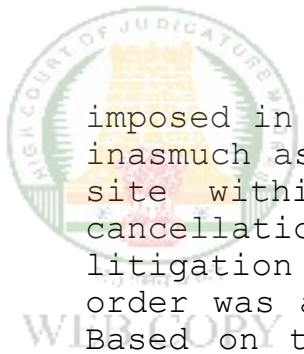
Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the first respondent in his proceedings No.G2/7254/2010 dated 28.05.2021 (received on 29.06.2021), and the impugned order of the second respondent in his proceedings R.C.No.C2/12300/2014 dated 18.02.2015 and quash the same with a consequential direction directing the third respondent to issue pattas in the name of the petitioners with respect to the land in Survey Nos.137/3, 137/26 in Pannaithuruthi Village.

For Petitioners : M/s.Porkodi Karnan
for M/s.Polax Legal Solutions
For R-1 to R-4 : Mr.B.Saravanan
Counsel for State

ORDER

The petitioners assail an order dated 28.05.2021 of the first respondent by which the order of the District Revenue Officer was affirmed.

2.The petitioners were allotted a free house site patta in the year 2007. Such patta was cancelled on the ground that the condition



imposed in connection with such allotment had not been complied with inasmuch as the petitioners had not constructed a house on the house site within the stipulated three year period. The order of cancellation was assailed by the petitioners. The first round of litigation culminated in a dismissal order dated 08.04.2013. Such order was assailed by the petitioners in W.P.(MD).No.10833 of 2014. Based on the order dated 08.07.2014 in the said Writ Petition, a second round of challenges were made. Eventually, the impugned order dated 28.05.2014 was issued by the first respondent herein.

3.The principal ground on which the petitioners assail the impugned order is that proper notice was not given. The petitioners have enclosed a copy of the notice dated 19.03.2021. According to the petitioners, the notice dated 19.03.2021 was received by the petitioners only on 27.03.2021. The petitioners assert that such notice was in respect of a hearing on 25.03.2021. Therefore, the petitioners contend that the impugned order is liable to be interfered with for non compliance of the principles of natural justice.

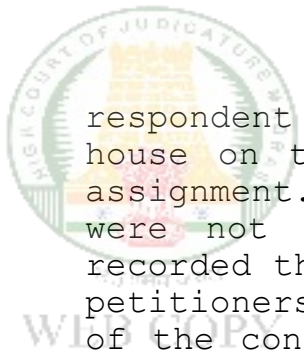
4.In addition, the petitioners state that the impugned order records that the petitioners were required to construct a house within a period of 6/12 months from the date of assignment. The petitioners contend that the said factual conclusion is completely erroneous because the petitioners were given three years time to make the construction.

5.Mr.D.Saravanan, learned counsel for the State, accepts notice on behalf of respondents 1 to 4.

6.In judicial review, the Court is not sitting in appeal over the order passed by the first respondent. The limited scope of review is confined to examining whether the decision making process was fair and reasonable and whether the order concerned is perverse.

7.Although the petitioners averred that the notice dated 19.03.2021 was received only on 27.03.2021, the said contention does not materially advance the case of the petitioners. The petitioners have not produced any communication to the first respondent within a reasonable time after 27.03.2021 in substantiation of the averment that the hearing notice was received only on 27.03.2021. It should also be noted in this connection that the impugned order was issued on 28.05.2021, which is more than two months after the date of admitted receipt of the relevant notice. Therefore, such contention does not justify interference with the impugned order.

8.The other contention that the assignees were actually granted three years' time to put up the construction is also not material because the admitted position is that the allotment was cancelled only in 2012, which is five year after the date of assignment. Upon



respondent has recorded that the assignees failed to construct the house on the relevant land in violation of the conditions of the assignment. In addition, it is recorded herein that the petitioners were not residing in Pannaithuruthi Village. It is expressly recorded that the land is not in the possession and enjoyment of the petitioners. As such, cogent reasons have been recorded in support of the conclusion. Consequently, the impugned order does not call for interference in exercise of judicial review.

9. For reasons set out above, W.P.(MD).No.17801 of 2021 is dismissed without any order as to costs. Consequently, W.M.P.(MD).Nos.14655, 14677 and 14678 of 2021 are closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg/nsr

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 Additional Chief Secretary and
Commissioner of Revenue Administration and
Commissioner of Land Administration,
Chepauk, Chennai-600 005.

2.The District Revenue Officer,
Sivagangai District.

3.The Revenue Divisional Officer,
Devakottai, Sivagangai District.

4.The Tahsildar,
Thirupattur, Sivagangai District.

+1 CC to M/s.POLAX LEGAL SOLUTIONS, Advocate (SR-31099[F] dated 04/10/2021)

+1 CC to M/s.SPL.GP (SR-31164[F] dated 05/10/2021)

W.P (MD) No.17801 of 2021
04.10.2021

PS (CO) /RS (20.10.2021) 3P 7C

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