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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.28081 OF 2012

1.C.Kandasamy

2.M.Vasanthi

3.M.Saroja

...Petitioners

Vs.

1.The District Collector,
Namakkal District,
Namakkal.

2.The District Revenue Officer,
Namakkal,
Namakkal District.

3.The Revenue Divisional Officer,
Tiruchengode Taluk,
Namakkal District.

4.The Tahsildar,
Tiruchengode Taluk,
Namakkal District.

...Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the order in Na.Ka.No.5333/2012/L1 dated 02.05.2012 passed by the 1st respondent, quash the same and consequently direct the respondents to grant house site patta to the petitioners to an extent of around 3 cents each in S.F.No.78/4, 78/3 and 78/5 respectively situated at Sakthinaickenpalayam Village, Tiruchengode Taluk, Namakkal District by considering their application dated 06.08.2010 in the light of the Government Orders

- (i) G.O.Ms.No.854 (Revenue) Dated 30.12.2006
- (ii) G.O.Ms.No.498 (Revenue) Dated 05.09.2007
- (iii) G.O.(2D).No.711 (Revenue) Dated 30.11.2007
- (iv) G.O.Ms.No.34 (Revenue) Dated 23.01.2008
- (v) G.O.Ms.No.241 (Revenue) Dated 09.05.2008



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- (vi) G.O.Ms.No.579 (Revenue) Dated 03.10.2008
- (vii) G.O.Ms.No.366 (Revenue) Dated 08.10.2009
- (viii) G.O.Ms.No.43 (Revenue) Dated 29.01.2010
- (ix) G.O.Ms.No.482 (Revenue) Dated 28.09.2010
- (x) G.O.Ms.No.172 (Revenue) Dated 23.05.2012

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.A.Anandan
Government Advocate

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order in Na.Ka.No.5333/2012/L1 dated 02.05.2012 passed by the 1st respondent, quash the same and consequently direct the respondents to grant house-site patta to the petitioners to an extent of around 3 cents each in S.F.No.78/4, 78/3 and 78/5 respectively situated at Sakthinaickenpalayam Village, Tiruchengode Taluk, Namakkal District, by considering their application dated 06.08.2010 in the light of the Government Orders.

2. The case of the petitioners is that, the petitioners are living in the above said Village and they are Coolie workers and they are in occupation of the Government lands in S.F.No.78/1, which has been classified as "Iteri" in the Revenue Records to a total extent of 0.39.5 hectares for more than 2 decades. While that being so, the petitioners repeatedly approached the District Collector for issuance of patta. In the meanwhile, the State Government issued G.O.Ms.No.854, Revenue Department dated 30.12.2006 and several other G.O.s for regularization of encroachment of Government Poramboke lands. Thereafter, they filed an application on 06.08.2010 to the respondents and the Village Administrative Officer, Sakthinaickenpalayam has passed a Resolution dated 10.11.2010 in favour of the petitioners. Thereafter, the petitioners submitted a petition dated 11.07.2011 to the 1st respondent to consider the claim for patta, who in turn rejected the request by way of an order dated 02.05.2012 in Na.Ka.No.5333/2012/L1. The respondents, having sub-divided the house sites as S.Nos.78/4, 78/3 and 78/5 respectively and having classified the same as "Grama Natham", have not shown any interest to grant patta in favour of the petitioners. For quashment of the order passed by the 1st respondent, the petitioners have filed this Writ Petition with the above said prayer.

3. The learned counsel for the petitioners submitted that already, for the very same issue, the petitioners have



approached this Court in W.P.No.550 of 2012 and this Court by order dated 24.01.2012 made an observation that the subject land was sub divided as S.Nos.78/4, 78/3, 78/5 respectively and classified as "Grama Natham". However, without considering the classification made by the respondents, the District Collector rejected the petitioners application, which is not sustainable. Accordingly, the petitioners pray this Court for issuance of patta in their favour.

4. The learned Government Advocate for the respondents submits that the though petitioners have sent representations to the respondents 1 to 3 dated 29.02.2012 and 19.03.2012 for grant of patta, the 1st respondent passed an order dated 02.05.2012 rejecting the applications based on the report of the RDO that the petitioners are not landless poor and are owning agricultural lands situated within the radius of 8 kms from the Municipal limits of Tiruchengode. Hence, the grievance of the petitioners before this Court is not sustainable.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. Considering the facts and circumstances of the case, the petitioners claim that they are in occupation of the above said land for more than 2 decades, while so, they made representations to the respondents, however the said representations were rejected by the 1st respondent on 02.05.2012 based on the report of the 3rd respondent on the ground that the 1st petitioner is owning patta lands in S.Nos.79/1, 81/1 and 82/2 in the adjacent Village and the 2nd and 3rd petitioners does not own any house-sites. Hence, based on the above said Government Orders, the house-sites are entitled only for landless poor and not for land owners. However, as per G.O.Ms.No.172, Revenue dated 23.05.2012, when a landless poor is in occupation for more than 10 years, he is entitled for a house-sites and after sub-division, the lands have been classified from "Iteri" to "Grama Natham". Without considering the classification made by the 4th respondent, vide order dated 10.01.2011, the 1st respondent rejected the 2nd and 3rd petitioners' request, which is not sustainable and hence the said order is set aside and the matter is remanded to the 1st respondent for re-consideration only in respect of 2nd and 3rd petitioners. Therefore, in the light of the above, the 2nd respondent is directed to consider the request of the 2nd and 3rd petitioners made in view of regularization and sub-division vide order dated 10.01.2011 and the same shall be disposed of on merits, after affording opportunity of hearing to the 2nd and 3rd petitioners and aggrieved persons if any, within a period of three weeks from the date of receipt of a copy of this order.



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7. Accordingly, with above terms this Writ Petition is allowed as far as the 2nd and 3rd petitioners are concerned and it is dismissed in respect of 1st petitioner. No costs.

Sd/-
Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

rap/skt

To

- 1.The District Collector,
Namakkal District,
Namakkal.
- 2.The District Revenue Officer,
Namakkal,
Namakkal District.
- 3.The Revenue Divisional Officer,
Tiruchengode Taluk,
Namakkal District.
- 4.The Tahsildar,
Tiruchengode Taluk,
Namakkal District.

+1cc to Mr.N.Manokaran, Advocate, Sr.No.12519

W.P.No.28081 of 2012

GPL(CO)
RVM(06/04/2022)