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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.28527 OF 2012

AND

M.P.NO.2 OF 2012

Kalaichelvi

... Petitioner

Vs.

1. The District Collector,
Erode District.
2. The District Revenue Officer,
Erode District.
3. The Revenue Divisional Officer,
Erode.
4. The Thasildhar,
Erode Taluk,
Erode District.
5. The Block Development Officer,
Modakurichi Panchayat Union,
Erode.
6. PUNCHAI KALA MANGALAM PANCHAYAT
Represented by its President,
Modakurichi Panchayat Union,
Erode District.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records from the file of fourth respondent in the proceedings of Na.Ka.No.200/2011/A5 dated 27/05/2011 and quash the same and direct the fourth respondent to implement the order dated 17.02.2011 in Na.Ka. No.200/2011/A5 and allot the alternative land to the petitioner.



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For Petitioner : Mrs.R.T.Sundari
for M/s.M.P.Jayaprakash

For Respondents : Mr.A.Anandan for R1 to R4
Government Advocate
Mrs.K.Bhuvaneswari for R5 and R6

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records from the file of the fourth respondent in proceedings Na.Ka.No.200/2011/A5 dated 27.05.2011 and to quash the same and to direct the fourth respondent to implement the order dated 17.02.2011 in Na.Ka.No.200/2011/A5 and to allot the alternative land to the petitioner.

2.The case of the petitioner is that the petitioner husband worked as Soldier in the Indian Military from 1964 to 1972 and he died on 23.09.1995. After his death, the petitioner applied for assignment of the Tharisu land in S.No.531/9 of Punjai Kala Mangalam Village, Erode Taluk and vide order dated 25.05.2005, she was assigned the same. During the year 2008, she left the village for taking treatment and after some time when her health condition improved, she returned to her village and found that a pond has been dug in her land. In this regard, the petitioner made representation to the respondents and the fourth respondent vide communication dated 17.02.2011 informed the petitioner that there is a proposal for allotting alternative land to her. Since there was no further action, once again she made representation to the respondents and thereafter the impugned order came to be passed. Hence, this writ petition.

3.The learned counsel appearing for the petitioner submitted that the petitioner was granted assignment patta for the subject property and the petitioner complied with all the conditions, however, without even cancelling the assignment patta, a pond was dug in the petitioner's land. Without following the due process of law, the title was alienated for pond by the Village Panchayat, which is un-sustainable one.

4.The learned Government Advocate submitted that the petitioner was aware of the processing work of the pond, however, she did not raise any objections.



5. Heard the arguments advanced on either side and perused the materials available on record.

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6. Admittedly, petitioner was given assignment in respect of the subject property, however, the counter affidavit filed by the fourth respondent is silent with regard to the cancellation of assignment. Once assignment is granted, it has to be cancelled in the manner known by following due process of law. In the present case, without cancelling the assignment, the land was converted into pond.

7. In view of the above, this Court directs the first respondent to pay reasonable compensation to the petitioner, within a period of twenty four weeks from the date of receipt of a copy of this order.

8. This writ petition is accordingly disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Erode District.
2. The District Revenue Officer,
Erode District.
3. The Revenue Divisional Officer,
Erode.
4. The Thasildhar,
Erode Taluk,
Erode District.



5. The Block Development Officer,
Modakurichi Panchayat Union,
Erode.

6. Panchai Kala Mangalam Panchayat
Represented by its President,
Modakurichi Panchayat Union,
Erode District.

+lcc to M/s.M.P.Jayaprakash, Advocate, S.R.No.12565

W.P.No.28527 of 2012
And
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MG (CO)
PM/22/03/2022