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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.9555 of 2013

T.Lakshmi

...Petitioner

Vs.

1. The District Collector,
Namakkal District, Namakkal.
2. The Revenue Divisional Officer,
Namakkal Revenue Divisionn,
Namakkal District.
3. The Tahsildar,
Namakkal Taluk,
Namakkal District.
4. Gajendran

...Respondents

PRAYER: This Writ Petition filed under Section 226 of Constitution of India, pleased to issue a Writ of certiorarified Mandamus Calling for the records from the second respondent pertaining to the order bearing Ref. No.Na.Ka.4232/ 2012/A2 dated 10.8.2012 and quash the same and further forbearing the respondents 2 - 4 from interfering in the possession of the petitioner of the house site assigned to her mother viz. Late Mrs.Venkattamal by the order bearing Ref. No.HSD/24/ 1415/2005-06 dated 1.7.2005 under BSO 21 of Revenue Standing Order.

For Petitioner : Mr.C.D.Sugumar

For RR1 to RR3 : Mr.Yogesh Kannadasan
Special Government Pleader

For RR4 : Mr.P.S.Sivashanmuga sundaram

Order

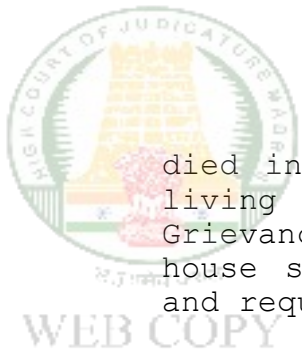
The petitioner has filed this petition for issuance of writ of Certiorarified Mandamus to call for the records from the second respondent dated 10.8.2012 and quash the same and further forbearing the respondents 2 - 4 from interfering in the possession of the petitioner of the house site assigned to her mother.



2. The case of the petitioner is that a house site was assigned to his mother late Venkatammal, by the order of the Tahsildar, 3rd respondent under BO 21 of Revenue Standing Order in S.F.No.46/1, Pachchal Village, Namakkal Taluk, Namakkal District and as per the condition prescribed in the order of assignment, the petitioner's mother has constructed a hut and lived therein. The petitioner is the only daughter of her mother and after her demise, the house site was inherited by the petitioner. While so, one Gajendran, the Village President and the 4th respondent has approached and pressurized the petitioner to sell the above said property in favour of him and since the petitioner refused the same, the said Gajendran had given false complaint to the authorities concerned against the petitioner. It is the grievance of the petitioner that without verifying the facts, the officials belong to the 3rd respondent office interfered with the construction activity carried out by the petitioner and ordered to stop the same. Thereafter, on enquiry, the petitioner came to know about a letter addressed to the Zonal Deputy Tahsildar, Namakkal, from the 2nd respondent to the 3rd respondent, directing them to maintain status quo. In this regard, the petitioner gave representation to the District Collector, Namakkal on 21.01.2013, however no action was taken on the said representation. Aggrieved by the same, the petitioner is before this Court.

3. The learned counsel appearing for the petitioner submitted that the petitioner and her mother has never violated any conditions imposed in the order of assignment at any point of time. While so, the respondents 2 and 3 without hearing the petitioner, has interfered with the possession of her as if she violated the conditions of assignment. Further, initially the petitioner's mother was granted free house site patta in the year 2005 and thereafter, she constructed the thatched house within a period of one year as per the condition of assignment and she also died in the year 2010 and as a legal heir, the petitioner is in enjoyment of the same. However, after the death of the original allottee, at the instigation of the 4th respondent, the 2nd respondent has taken steps to cancel the free site patta and initiated proceedings against the legal heir and not against the original allottee, which is not sustainable and further since the condition was fulfilled immediately after the grant of free house site patta, the same cannot be cancelled after a lapse of several years and hence prays for appropriate orders.

4. The learned Special Government Pleader appearing for the official respondents submitted that originally the land in S.F.No.46/1, classified as 'Grama Natham' is situated in Pachchal Revenue Village and five persons including the petitioner's mother were granted free house site pattas on 12.07.2005 with condition that they should construct the houses within one year and the grantee Venkattammal has also put up a small thatched house in the house site granted and



died in the year 2010. While so, one A.Vadivel and 9 others living in the said Village had preferred a complaint during Grievance Meeting before the 1st respondent, stating that free house site pattas were given erroneously to the rich people and requested for cancellation of the pattas.

5. He further submitted that only after conducting verification, order could be passed on the Complaint Petition and the petitioner has opportunity to participate in the enquiry on the complaint petition and then to file her objection against the order that would be passed on complaint petition, if she is aggrieved by the decision of the enquiry officer and hence this Writ Petition is premature in nature and prays for dismissal of the same.

6. This Court has carefully considered the rival submissions and also perused the materials placed before it.

7. Admittedly the petitioner's mother was granted free house site patta in the year 2005 with condition that she should construct the same within a period of three years. Even on perusal of the counter affidavit, it reveals that the mother of the petitioner has constructed the thatched house within a period of one year and passed away in the year 2010 and thereafter at the instigation of the 4th respondent, the 2nd respondent informed the 3rd respondent to cancel the patta, if there is any violation of condition. However the fact remains that free house patta was granted in favour of the petitioner's mother, not in favour of the petitioner and the original allottee also died in the year 2010 itself and after a lapse of several years, initiating proceedings against the legal heirs of the original allottee is not sustainable and therefore, the impugned order is passed without application of mind and it is liable to be set aside.

8. For the reasons aforesaid, this Writ Petition is allowed and the impugned order of the the second respondent pertaining to the order bearing Ref. No.Na.Ka.4232/ 2012/A2 dated 10.8.2012, is set aside. No costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Namakkal District, Namakkal.
2. The Revenue Divisional Officer,
Namakkal Revenue Divisionn,
Namakkal District.
3. The Tahsildar,
Namakkal Taluk,
Namakkal District.

+1cc to Government Pleader SR. No. 36594

W.P.No.9555 of 2013

RR (CO)
PR (08/07/2022)