



W.P.No.32576 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.32576 of 2022

M.Santhi Petitioner

-Vs-

1.The Commissioner of Revenue Administration
Chennai.

2.The Commissioner of Land Administration
Administration, Chennai.

3.The District Collector, Tiruvarur District
Tiruvarur.

4.The Tahsildar
Tiruvarur District
Tiruvarur.

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondent to consider and dispose of the petitioner's representation dated 23.04.2022 within the time fixed by this Court on merits and in accordance with law and allot an alternative site to the petitioner as she had been residing there for more than 35 years.

For Petitioner : Mr.T.Elumalai

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader



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ORDER

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The prayer sought for herein is for a Writ of Mandamus directing the respondent to consider and dispose of the petitioner's representation dated 23.04.2022 within the time fixed by this Court on merits and in accordance with law and allot an alternative site to the petitioner as she had been residing there for more than 35 years.

2. The petitioner claims that she has been residing in a place called Ammaiappan Vadapathi Village, Tiruvarur Taluk, Tiruvarur District for 35 years. Even though the land belongs to the Government, as she has been residing in the said place for more than 35 years, either patta should be given in favour of the petitioner or if the respondents wants to evict the petitioner from the present place, suitable alternative place to be given for putting up her dwelling house to reside.

3. In order to redress the grievance of the petitioner, she has given a representation on 23.04.2022 to the 4th respondent and copy marked simultaneously to the other respondents, and the same since has not been considered and no action has been taken by the respondents, she has moved the present writ petition.



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3. Learned counsel for the petitioner would submit that, the petitioner has put up a hut in the said land, which of course belongs to the Government. However, the petitioner has been residing in the said place for long years and at this juncture since the respondents wanted to evict the petitioner, they should provide at least an alternative site to the petitioner.

5. However, Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the respondents would submit that, a small hut has been put up by the petitioner very recently in a Government Poramboke land, which in fact is a Odai Poramboke and therefore such kind of encroachment cannot be since permitted, the respondents have taken action to evict the encroachment. He also submits that, merely because such an encroachment has been removed, the petitioner cannot seek as a matter of right to provide an alternative land and therefore the plea raised by the petitioner that she is entitled to reside in that place itself by quoting Article 300A of the Constitution is not sustainable as that kind of protection has not been made under the said Article. Only the person who is the owner of the property or his possession is legally recognized, then only such right would flow to any citizen of this country and hence such kind of wrong quoting of Article 300A cannot in any way help the petitioner to seek for the relief as claimed herein in this writ petition.



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6. Learned Special Government Pleader would further contend that, insofar as the Government land is concerned, such kind of plea cannot be considered provided if the seeker of the alternative site has occupied the water body or water body Poramboke or canal etc., which has been made clear in many Government orders and number of judgments by the Courts of law, including this Court. Therefore, he seeks for the dismissal of the writ petition.

7. I have heard the learned counsel for both sides and have perused the materials placed on record.

It is an admitted case on the part of the petitioner that the petitioner has put up a small hut in the Odai Poramboke ie., water body. Therefore, it became necessitated for the Revenue authorities to take action to evict the petitioner, which they have already undertaken.

8. However, the petitioner now seeks or claims a right over the property to squat on the same or she seeks for alternative site for construction of her dwelling house. In this context, as has been rightly pointed out by the learned Special Government Pleader, such kind of alternative site as a matter of right cannot be considered by the respondents as the petitioner had admittedly been in occupation or had encroached Odai Poramboke or water body and therefore that would not give any premium to the petitioner to seek for an alternative land.



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9. At the same time, if any landless poor seeks for patta or assignment of land of three cents for construction of dwelling house, it is one of the Schemes envisaged by the State Government and under the said scheme, the petitioner's plea can be considered by the revenue administration of the district concerned.

10. In that view of the matter, this Court is inclined to dispose of this writ petition with the following order.

“That insofar as the plea raised by the petitioner to get an alternative site is concerned, it cannot be considered as a matter of right. But, at the same time, it is open to the respondents to consider the plea of the petitioner to get an assignment under landless poor category for the purpose of dwelling house to the extent of 3 cents under the Scheme being envisaged and implemented by the State Government for any landless poor for construction of dwelling house. Accordingly, an order to that effect can be passed by the District Collector ie., the 3rd respondent concerned within a period of eight weeks from the date of receipt of a copy of this order.”



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R. SURESH KUMAR, J.

KST

11. With the above directions, this writ petition is disposed of. No costs.

05.12.2022

Index : Yes/No
Internet : Yes/No
KST
To

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