



W.P.No.32705 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.32705 of 2022

Vasanthy

.... Petitioner

-Vs-

1.The District Collector
District Collectorate
Thiruvallur District.

2.The Revenue Divisional Officer
Thiruvallur District.

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus forbearing the respondent agents, servants, subordinates or anybody acting on their behalf from in any way dealing with the property situated in No.64 S No.1139/1, 1139/2 and 1139/3 Pattarai Perumputhur Village, Thiruvallur Taluk and Village, till the appeal filed under Section 11 before the District Collector Thiruvallur is decided on its merits.

For Petitioner : Ms.G.Selvi George

For Respondents : Mrs.Akila Rajendran
Government Advocate



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ORDER

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The prayer sought for herein is for a Writ of Mandamus forbearing the respondent agents, servants, subordinates or anybody acting on their behalf from in any way dealing with the property situated in No.64 S No.1139/1, 1139/2 and 1139/3 Pattarai Perumputhur Village, Thiruvallur Taluk and Village, till the appeal filed under Section 11 before the District Collector Thiruvallur is decided on its merits.

2. It is the case of the petitioner that, landed property at No.64, S.Nos. 1139/1, 1139/2 and 1139/3 Pattarai Perumputhur Village, Thiruvallur Taluk and Village belongs to the Government, which consists of 97 cents. The petitioner's father one Babulal was an ex-serviceman and therefore he seems to have sought for assignment of the said land in his favour, which according to the petitioner, was considered by the government / revenue department and patta was given in a document called 70 paise document, based on which , after the demise of the said Babulal the petitioner, who is the daughter of the said Babulal had made a request on 05.04.2017 to the Tahsildar concerned to issue patta in favour of the petitioner's father, after declaring the said land as Grama Natham.

3. Considering the request of the petitioner, the Tahsildar by proceedings dated 25.04.2017, having categorised the said land as Grama Natham for 0.31



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cents, in Patta Nos.916, 917 and 918 to the aforesaid extent, issued the same in favour of the petitioner's father ie., Babulal.

4. Subsequently, the Village President of the village concerned seems to have given a request to the Revenue Divisional Officer ie., the second respondent to cancel the patta or the order issued or proceedings issued by the Tahsildar in favour of the petitioner's father in respect of the said land of 97 cents as it is required for some public purpose.

5. Having considered the request made by the Village President and after having conducted the enquiry in that locality the Revenue Divisional Officer, by proceedings dated 07.06.2022 has directed the Tahsildar to cancel the patta or the order issued in favour of the petitioner's father in respect of the said land.

6. As against the said order, the petitioner claimed that she has filed an appeal before the first respondent / District Collector. However, on a perusal of the appeal, there is no date mentioned as to when such an appeal was filed.

7. Be that as it may. Now a recommendatory report has been sent to the Tahsildar to the District Collector stating that the said land to the extent of 97 cents claimed to have been assigned in favour of the petitioner's father is a



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suitable land for construction of building for Archeological Department for which they required some land in that locality. Therefore the Tahsildar had recommended vide his proceedings dated 07.07.2022 to the District Collector . That the said land since would be a suitable one for construction of building for Archeological Department, whether it can be assigned to them. Only at this juncture, the petitioner has moved the present writ petition with the aforesaid prayer.

8. Learned counsel for the petitioner would contend that as against the order passed by the Revenue Divisional Officer dated 07.06.2022 appeal has been filed before the District Collector and the said appeal since is pending before the District Collector, let that authority decide the appeal filed by the petitioner and till then a direction may be given not to take any precipitative action in favour of any Government authority including Archeological Department as recommended by the Tahsildar.

9. However, Ms.Akila Rajendran, learned Government Advocate appearing for the respondents, on instructions would submit that, though it was claimed by the petitioner that appeal has been filed to the District Collector, no such appeal so far seems to have been filed and no date has been mentioned in the copy of the appeal filed in the typed set of documents and when that being so, it cannot



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be construed that the petitioner has already filed an appeal against the order of the Revenue Divisional Officer, which is pending for consideration.

10. I have considered the submissions made by the learned counsel for both sides and have perused materials placed on record.

11. Right or wrong, assignment of patta, in whatever name it may be called viz., 70 Paise document, had been issued in favour of the deceased father of the petitioner in the capacity that he was an ex-serviceman. Subsequently, at the request of the petitioner, the Tahsildar categorized the land as Natham Poramboke land and issued the patta in favour of the petitioner's father and in this regard, a proceedings dated 24.05.2017 was issued by the Tahsildar. Subsequently, the Revenue Divisional Officer, having conducted an enquiry decided to cancel the same and accordingly he issued proceedings dated 07.06.2022 directing the Tahsildar to cancel the assignment issued in favour of the petitioner's father for the purpose of retaining the land towards public purpose.

12. In the meanwhile, since the Archeological Department also made a request to allot the same land for construction of building, that was considered and recommended by the Tahsildar. Only at this stage, an appeal is claimed to



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have been filed by the petitioner, which is pending before the first respondent.

In such case, whether at this juncture if any precipitative action is taken by the revenue department to assign the land or transfer the land in favour of the Archeological Department for construction of building, the plea raised by the petitioner before the District Collector by way of appeal would become infructuous.

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

- It is open to the petitioner to give one more copy of the appeal against the order passed by the Revenue Divisional Officer dated 07.06.2022 to the first respondent District Collector within a period of one week from the date of receipt of a copy of this order.
- On receipt of such a copy of the appeal, if no appeal has already been received by the 1st respondent, the same shall be decided by the 1st respondent / District Collector, after giving an opportunity of being heard to the petitioner, within a period of three weeks thereafter.



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- Till such time, no precipitative action shall be taken by the respondents in pursuance of the recommendatory report sent by the Tahsildar dated 07.07.2022 in respect of the land in question recommending the same to be transferred to the Archeological Department for construction of building for their use.

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

06.12.2022

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

- 1.The District Collector
District Collectorate
Thiruvallur District.
- 2.The Revenue Divisional Officer
Thiruvallur District.



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R. SURESH KUMAR, J.

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