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W.P.No.3972 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.3972 of 2017 and
W.M.P.Nos.4056 & 4057 of 2017 and
W.M.P.No.19375 of 2017

Manimegalai

... Petitioner

Vs.

1.The District Collector, Namakkal.

2.The Tahsildar,
Tiruchengode Taluk & Post,
Namakkal District.

3.The Revenue Divisional Officer,
Office of the Revenue Divisional Office,
Tiruchengode Taluk & Post,
Namakkal District.

4.Jayapal

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records of the 3rd respondent vide.Ni.Mu.1235/2016/Aa dated 12.01.2017 and quash the same.

For Petitioner : Mr.S.Sithirai Anandam



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For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader for R1 to R3

: Mr.N.Manokaran for R4

ORDER

The prayer sought for herein is for a Writ of Certiorari to call for the records of the 3rd respondent vide.Ni.Mu.1235/2016/Aa dated 12.01.2017 and quash the same.

2. An extent of 0.0035.5 square meter in Natham Survey No.563/1 at Konnaiyar Village, Elachipalayam, Tiruchengode Taluk, Namakkal District was assigned to the petitioner under landless poor category. Subsequently the 4th respondent seems to have given complaint to the Revenue authorities to cancel the patta on two grounds, first ground is that the petitioner is having land at Village Natham Survey No.562/5, 7 secondly insofar as the subject land is concerned which is being used as road by the public in that village where a concrete road has already been laid, hence it cannot be given patta for anyone like the petitioner, therefore on that ground it was sought to cancel the patta.

3. The 3rd respondent/Revenue Divisional Officer, after getting a report



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from the Revenue Inspector as well as the Village Administrative Officer having considered the plea raised by the 4th respondent as well as the petitioner, has passed order on 12.01.2017 cancelling the patta given in favour of the petitioner under landless poor category, challenging the same, the present writ petition has been filed.

4. Heard Mr.S.Sithirai Anandam, learned counsel appearing for the petitioner, Mr.Yogesh Kannadasan, learned Special Government Pleader for the respondents 1 to 3 and Mr.N.Manokaran, learned counsel for the 4th respondent.

5. In fact the petitioner has filed a civil suit for seeking permanent injunction against the respondents that was admittedly dismissed for default which was not subsequently been restored.

6. Like that the 4th respondent has filed a suit for getting an easementary right using the land in question as a road or pathway as an ingress and egress towards the property belongs to the 4th respondent and that suit in O.S.No.94 of 2016 filed by the 4th respondent before the Principal



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District Munsif, Tiruchengode after trial was decreed by the judgment and decree dated 25.03.2022 by the said Court, under which, the easementary right of the 4th respondent in respect of the land in question have already been declared.

7. When that being so, this Court feels that since the Civil Court already passed a decree and judgment in favour of the 4th respondent, where, the property in question, for which the assignment now has been cancelled through the impugned order, is sought to be revised or re-visited or set aside, for the said purpose, the petitioner has moved the present writ petition, has also been considered to be a common pathway or road and that is the reason why the Civil Court since has declared it as a pathway by way of easementary right. As against the said Civil Court decree, if at all the petitioner is aggrieved, he can file an appeal and seek redressal of her grievance.

8. Therefore, the two reasons stated by the 4th respondent having been considered was accepted by the 3rd respondent in the order impugned dated 12.01.2017 and on perusal of the same, this Court also feels that absolutely



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there has been no fault on the part of the 3rd respondent to accept those reasons and hence the order passed by the 3rd respondent through the impugned order cancelling the assignment given in favour of the petitioner under landless poor category, accordingly is to be sustained.

9. In that view of the matter, the writ petition therefore fails, accordingly it is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also dismissed.

09.12.2022

Index : Yes / No

Speaking Order : Yes / No

Sgl

To

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Namakkal District.

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Office of the Revenue Divisional Office,
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R.SURESH KUMAR, J.

Sgl



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