



WEB COPY



W.P.(MD).No.19765 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 29.11.2022

ORDER PRONOUNCED ON : 01.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.19765 of 2013

and MP(MD).No.1 of 2013

V.Vijayarani

....Petitioner

Vs

1.The District Collector
Sivagangai

2.The Special Tahsildar
Adi Dravidar Welfare
Devakottai

3.The Tahsildar
Thirupathur Taluk
Thirupathur
Sivagangai District

4.The District Welfare Officer
Schedule Caste and Schedule Tribe
Sivagangai

....Respondents

5. Sarawathi
Representing Ayyaar Women Self Help Group

(R5 is impleaded vide Court
order dated 21.09.2022)

Prayer: This Petition filed under Article 226 of the Constitution of India, to
issue a Writ of Ceritiorari, to call for the records pertaining in



W.P(MD).No.19765 of 2013

W1/41608/2010 dated 02.07.2012 signed on 02.07.2013 on the file of the 4th respondent and quash the same as illegal, unjust, unconstitutional without jurisdiction in respect of the petitioner is concerned.

For Petitioner : Mr.S.A.Ajmalkhan
For R1 to R4 : Mr.M.Lingadurai
Special Government Pleader
For R5 : Mr.B.Anandan

ORDER

The present writ petition has been filed challenging an order passed by the fourth respondent herein under which the order of assignment granted in favour of the writ petitioner has been cancelled.

2.According to the learned counsel for the writ petitioner, the petitioner was granted an assignment of 5 cents of land in Plot No.4 by proceedings of the second respondent herein on 13.11.2007. However, when she attempted to put up construction, there were complaints from the neighbours. Hence, the Sub Collector, Devakottai without conducting an enquiry, passed an order on 07.07.2008 directing the petitioner to maintain status-quo. This order was challenged by the writ petitioner in W.P(MD).No.9430 of 2008. The said writ petition was allowed on 15.03.2010 and permitted the revenue authorities to initiate proceedings for cancelling of the order of assignment, if there is any



W.P(MD).No.19765 of 2013

violation in the matter of allotment of plots to the petitioner after following the principles of natural justice.

3.The learned counsel had further contended that the fourth respondent thereafter has passed the present impugned order on 02.07.2013 wherein he has cancelled the order of assignment. This order is under challenge in the present writ petition.

4.The learned counsel for the petitioner had further contended that the fourth respondent has not conducted any proper enquiry and he has only issued a common impugned proceedings. The fourth respondent has not mentioned about the evidences and witnesses properly in the impugned order. Though the order is dated 02.07.2012, it was signed only on 02.07.2013. The learned counsel had further contended that the Special Tahsildar has granted an order of assignment only after verifying the enjoyment of the writ petitioner. Hence, he prayed for allowing the writ petition.

5.Per contra, the learned Special Government Pleader appearing for the official respondents had contended that after W.P(MD).No.9430 of 2008 was allowed, notice was issued to the writ petitioner. Only after recording the statement of the writ petitioner, the present impugned order has been passed and hence, there is no violation of principles of natural justice. The petitioner had appeared for enquiry and her submission has also been recorded by the fourth respondent and the same is reflected in the impugned order.



W.P(MD).No.19765 of 2013

6.The learned Special Government Pleader had further contended that the fourth respondent has categorically found that the petitioner's husband is having property in Survey No.214/15 and Survey No.804/5 in Keelakavanipatty Village, Senbagapettai Group. The petitioner is also working as a sanitary worker in Tamil Nadu Civil Supply Corporation. That part, the petitioner's husband is now working abroad. Hence, the petitioner is not entitled to get an order of assignment. Only based upon the said facts, the order of assignment granted to the writ petitioner has been cancelled. Hence, he prayed for sustaining the impugned order.

7.I have considered the submissions made on either side and perused the materials available on record.

8.There is no dispute that the petitioner was granted assignment order for an extent of 5 cents in Survey No.237/4 by an order dated 13.11.2007. Thereafter, some objections have been raised as against the grant of assignment order in favour of the writ petitioner. Without issuing any notice to the writ petitioner, the Sub Collector, Devekottai has passed an order on 07.07.2008 cancelling the order of assignment. The said cancellation order has been challenged by the writ petitioner in W.P(MD).No.9430 of 2008. This Court has allowed the writ petition on 15.03.2010 granting liberty to the authorities to proceed with the cancellation of assignment, in case if there is any violation, after giving due opportunity to the assignees.



W.P(MD).No.19765 of 2013

9.A perusal of the impugned order indicates that the fourth respondent has issued notice to the writ petitioner and has also conducted an enquiry by recording the statement of the writ petitioner. In the impugned order, the fourth respondent has specifically arrived at a finding that the petitioner's husband is having property in Patta No.330 in Survey No.214/15 and Survey No.804/5 in Keelakavanipatti Village, Senbagapettai Group. Only based upon the said findings, the fourth respondent has arrived at a conclusion that the petitioner is not eligible for free assignment of land.

10.The learned Special Government Pleader has produced the revenue records to the effect that the petitioner's husband is owning property in survey Nos.214/15 and 804/5 in Keelakavanipatty Village, Senbagapettai Group, Thiruppathur Taluk. Hence, it is clear that the petitioner's husband is owning property and the petitioner is not eligible to get free assignment patta.

11.A perusal of the writ affidavit discloses that the said findings in the impugned order have not been challenged. No explanation has been afforded by the writ petitioner in the affidavit for the said findings rendered in the impugned order. Therefore, it is clear that the petitioner's husband is owning lands and patta have been issued in his favour. Hence, it is clear that the petitioner is not eligible for an order of assignment. The fourth respondent after considering all the materials on record and after giving due opportunity to the writ petitioner, he has passed the present impugned order.



W.P(MD).No.19765 of 2013

WEB COPY

12.I do not finding any illegality or infirmity in the impugned order.

The writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

01.12.2022

Internet : Yes/No

Index : Yes/No

msa

To

1.The District Collector
Sivagangai

2.The Special Tahsildar
Adi Dravidar Welfare
Devakottai

3.The Tahsildar
Thirupathur Taluk
Thirupathur
Sivagangai District

4.The District Welfare Officer
Schedule Caste and Schedule Tribe
Sivagangai



WEB COPY



W.P(MD).No.19765 of 2013

R.VIJAYAKUMAR, J.

msa

Pre-delivery order made in

W.P.(MD).No.19765 of 2013
and MP(MD).No.1 of 2013

01.12.2022