



W.P.(MD)No.27116 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 01.12.2022

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THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

W.P. (MD) No.27116 of 2022

and

W.M.P.(MD)Nos.21264 and 21267 of 2022

Suresh Kumar

... Petitioner

Vs.

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2.The Tahsildar,
Tahsildar Office,
Ottapidaram,
Thoothukudi District.

3.Raja

4.Mariaselvam

... Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the second respondent in Na.Ka.No.A2/3175/2022, dated 10.10.2022 and quash the same as illegal and consequently direct the second and third respondents to grant patta in the name of the petitioner for the land in possession of this petitioner in Sy.No.8/2 in Ceylon Colony, Panchalankurichi Village, Ottapidaram Taluk, Thoothukudi District within a time stipulated by this Court.



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For R1 & R2 : Mrs.K.Christy Theboral
Additional Government Pleader

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ORDER

This Writ Petition has been filed challenging the order passed by the second respondent in Na.Ka.No.A2/3175/2022, dated 10.10.2022, consequently to direct the second and third respondents to grant patta in the name of the petitioner for the land in Sy.No.8/2 situated at Ceylon Colony, Panchalankurichi Village, Ottapidaram Taluk, Thoothukudi District within a time to be stipulated by this Court.

2.Heard Mr.P.M.Vishnuvarthanan, learned counsel for the petitioner and Mrs.K.Christy Theboral, learned Additional Government Pleader, who takes notice for the first and second respondents. Considering the nature of order proposed to be passed, notice to the third and fourth respondents is dispensed with. By consent of both the parties, this writ petition is taken up for final disposal.

3.The learned counsel for the petitioner submitted that the petitioner is a Srilankan refugee. The petitioner altered the Government Waste Land in Survey No.8/2, situated at Panjalankurichi Village, Ottapidaram Taluk, Thoothukudi District and he is doing agricultural work therein. Thereafter, the petitioner made an application through his brother seeking free patta for the



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said Government Waste Land. But the third respondent illegally granted patta in favour of the fourth respondent without any enquiry. Based on the illegal patta, the fourth respondent had given a complaint before the revenue authorities stating that the petitioner is interfering with the peaceful possession and enjoyment of the subject property. Hence, the petitioner made a representation on 31.05.2022 seeking to cancel the patta illegally granted in favour of the fourth respondent.

4.Since the said representation was not considered, the petitioner filed W.P.(MD)No.12652 of 2022 and the same was disposed of directing the second respondent to consider the representation and pass appropriate orders on the same with a period of three weeks from the date of receipt of a copy of the order. Thereafter, the second respondent passed the impugned order rejecting the representation of the petitioner stating that the fourth respondent does not have any land in her name. Aggrieved over the same, the petitioner has filed the present writ petition.

5.The learned Additional Government Pleader appearing for the respondents submitted that the land, to which the petitioner now seeks patta, was assigned to the fourth respondent even in the year 2006 as she is the landless poor agriculturist. Further, the petitioner and his family members were already given with six acres of land under the Sri Lankan Refugee and



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the present claim of the petitioner seeking patta for the Government Waste Land cannot be considered by the official respondents. Even when the earlier writ petition filed by the petitioner was taken up for final disposal, it was stated that the respondents are going to reject the claim of the petitioner. Accordingly, the formal impugned order has been passed after hearing the petitioner. Hence, there is no violation in the order passed by the second respondent.

6.The main contention of the learned counsel for the petitioner is that the petitioner is in long possession and enjoyment of the said property and he is doing agricultural activities in the said land. Without considering the same, the patta has been illegally granted to the fourth respondent and the same has to be cancelled. Further, the impugned order has been passed without hearing the petitioner and the same has to be set aside.

7.The contention of the petitioner that the impugned order came to be passed without hearing the petitioner cannot be accepted by this Court, since in the impugned order itself, the statement given by the petitioner on 05.08.2022 has been recorded, in which he has stated that the petitioner is in possession and enjoyment of the said property for about 21 years; the fourth respondent has trespassed into the property of the petitioner and caused damages to the crops and motor bump of the petitioner; based on the complaint

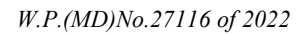


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made by the petitioner, the fourth respondent agreed not to disturb the peaceful possession and enjoyment of the property of the petitioner before the Police Officials and the petitioner is in possession and enjoyment of the subject property for about 21 years.

8. In the order impugned in this writ petition, the statement of the fourth respondent has also been recorded. It has been stated that the husband of the fourth respondent was assigned with the subject land as he is a landless poor agriculturist. During his life time, he along with the fourth respondent were doing agricultural work in the said land. When the husband of the petitioner was sick and hospitalized, the fourth respondent was not able to do the agricultural work. At that time, the petitioner, who is doing agricultural work in the Government Waste Land situated adjacent to the land of the fourth respondent, had encroached upon the land of the petitioner and planted some trees also. The boundary stones put up by the Surveyor after surveying the land of the fourth respondent, had also been damaged by the petitioner. A complaint has also been given to the respondent police in this regard.

9. On carefully considering the above statements given by the petitioner as well as the fourth respondent and after scrutinizing the revenue records, the impugned order has been passed by the Tahsildar stating that the petitioner is not entitled to get free patta, as the subject property was assigned to the fourth



11. For the forgoing reasons, this writ petition is dismissed. The petitioner is at liberty to workout his remedy before the District Revenue Officer by filing an appeal. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes/No
Internet : Yes/No
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Thoothukudi District,
Thoothukudi.
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Tahsildar Office,
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V.BHAVANI SUBBAROYAN, J.

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Order made in
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