



W.P.(MD) No.28271 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD) No.28271 of 2022

R.Malar kodi

... Petitioner

Vs.

- 1.The District Collector,
Collectorate, Madurai – 625 020.
- 2.The Revenue Divisional Officer,
Office of the Revenue Divisional Office,
Usilampatti,
Madurai District.
- 3.The Assistant Director of Panchayath
(Village Panchayath),
Collectorate Campus,
Madurai – 625 020.
- 4.The Tahsildar,
Office of the Tahsildar,



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WEB CO Usilmapatti, Madurai District.

5.The Zonal Deputy Tahsildar,
Chellampatti,
Office of the Tahsildar,
Usilampatti, Madurai District.

6.The Revenue Inspector,
Karmathur Sub-Division,
Usilampatti Division,
Madurai District.

7.The Block Development Officer
(Village Panchayath)
Karumathoor Village,
Office of the Chellampatti Panchayat Union,
Chellampatti,
Madurai District.

8.The Village Administrative Officer,
Karumathur Village, Madurai District.

9.Maragatham

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the 4th respondent in his proceedings Na.Ka.No.4974/2019/AA-4, dated 30.11.2021 and quash the same and to direct the respondents 1 to 4 and 7th respondent to consider the petitioner's representation dated 22.08.2022.



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For Petitioner : Mr.B.Narayan Ram

For Respondents : Mr.P.T.Thiraviyam,
Government Advocate for R1 to R6 & R8

Mr.S.Shaji Bino for R7

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

Challenging the communication issued by the 4th respondent in his proceedings in Na.Ka.No.4974/2019/AA-4, dated 30.11.2021 and seeking for consequential direction to the respondents 1 to 4 and 7 to consider the petitioner's representation dated 22.08.2022, the petitioner has filed this Writ Petition.

2. Heard Mr.B.Narayan Ram, learned counsel for the petitioner, Mr.P.T.Thiraviyam, learned Government Advocate, who takes notice for the respondents 1 to 6 and 8 and Mr.Shaji Bino, learned Counsel, who takes notice



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for the seventh respondent. Considering the nature of the order proposed to be passed in this Writ Petition, notice to the 9th respondent is dispensed with.

3. By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

4. It is the case of the petitioner that the petitioner has owned agricultural land in S.No.214/1A & 212/11B for the total extent of 1 Acre 30 cents in Pulithevanpatti, Karumathur Village, Madurai District. The allegation of the petitioner is that the 9th respondent has encroached 1 cent plot in Government Natham Purambugal land in Survey No.485/1 and started to construct a building in the year 2020. In this regard, the petitioner made a representation to the second respondent and after receipt of the same, the second respondent has forwarded the same to the respondents 4 and 6. As per the instructions, the 6th respondent has sent a notice on 23.04.2020 to the 9th respondent, calling upon her to submit the explanation for the aforesaid encroachment in the Government Natham Purambukal Land, within 08.05.2020 and stated that if explanation had



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not been given within the stipulated time, legal action will be taken.

Subsequently, the 4th respondent has also sent a notice on 14.05.2020, under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 to the 9th respondent, stating that the encroached land has to be evicted within 21.05.2020 and if not done, all the properties and crops left in the land will be forfeited. Challenging the aforesaid notices dated 23.04.2020 and 14.05.2020, issued by the respondents respondents 6 and 4 respectively, the petitioner has filed a writ petition before this Court in W.P.(MD)No.6278 of 2020. This Court, by order dated 17.04.2021, allowed the said Writ petition.

5. In the meantime, the petitioner has also filed a suit before the District Munsif cum Judicial Magistrate No.1, Usilampatti in O.S.No.22 of 2020, praying for declaration that the suit schedule property is a common pathway and for a consequential permanent injunction. Pursuant to the order passed by this Court in W.P.(MD)No.6278 of 2020, the petitioner has filed a memo in O.S.No. 22 of 2020, seeking to withdraw the suit and the learned District Munsif cum Judicial Magistrate No.1, Usilampatti, dismissed the suit as not pressed on



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08.06.2022. Thereafter, based on the representation sent by the petitioner, the third respondent has sent a proceeding to the 7th respondent to survey the land in question and he has forwarded the same to the 4th respondent. In the meantime, the 4th respondent had received a petition from the 9th respondent, seeking to provide patta in the aforesaid survey number on 19.07.2021. Thereafter, the 4th respondent has issued the communication by stating that thorns in the pathway has to be evicted and further stated that patta can be provided to the 9th respondent on the basis of eligibility criteria on the basis of the petition given by the 9th respondent. As against the said communication, the petitioner has filed this Writ Petition.

6. The learned counsel appearing for the petitioner submitted that in the impugned communication, the 4th respondent has stated that patta can be given to the 9th respondent according to the eligibility criteria, but the 9th respondent is already holding a patta land in her name in S.Nos.201/1B, 201/2H and 201/7. He further submitted that in Revenue Standing Order 21, it has been stated that assignment of house site is to uplift the weaker section of the society, provision



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of house site to the house less person is the consistent policy of the Government.

Since, the 9th respondent does not fall under any of the above said category, the impugned communication passed by the 4th respondent dated 30.11.2021 is liable to be quashed.

7. On a perusal of the impugned communication, it is seen that the 4th respondent has sent a communication to the 7th respondent viz., the Block Development Officer, Chellampatti, Madurai District, directing him to remove the encroachment in the pathway in S.No.485/1-0 and also to consider the petition of the 9th respondent, seeking to grant free house site patta, if the 9th respondent is otherwise eligible. Further, it is seen that the 7th respondent has not passed any final order based on the impugned communication issued by the 4th respondent. The petitioner has filed this Writ Petition only on apprehension and therefore, there is no merit in the writ petition. Hence, we are not inclined to interfere with the impugned communication issued by the 4th respondent.



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8. In view of the above, this Writ Petition is dismissed. No costs. It is needless to say that if the petitioner is filed any objections for granting free house site patta to the 9th respondent, the same shall be considered by the 4th and 7th respondents, at the time of granting free house site patta to the 9th respondent.

[D.K.K., J.] [R.V., J.]

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vsm

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