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W.P.No.3507 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.3507 of 2023

S.Bhaskaran

... Petitioner

Vs.

1.The District Collector,
Namakkal District,
Namakkal – 637 001.

2.The District Revenue Officer,
Namakkal District,
Namakkal – 637 001.

3.The Revenue Divisional Officer,
Thiruchengodu,
Namakkal District,
Namakkal – 637 301.

4.The Tahsildar,
Kumarapalayam Taluk,
Namakkal District,
Pin – 637 209.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records on the



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file of the third respondent/Revenue Divisional Officer, Thiruchengodu in connection with his proceedings in Na.Ka.No.66/2019 (AA) dated 30.01.2019 and the records on the file of the fourth respondent / Tahsildar, Komaraparalayam Taluk, in connection with his order in Na.Ka.No.1745/2021/A2 dated 10.02.2022 and quash the said orders and consequently, direct the respondents from R1 to R4 to restore the allotment of the house site issued to the petitioner under Patta bearing HSD No.134/2017-18 F-1426 dated 09.05.2017 or issue an alternate free house site either in Kokkarayanpettai Village or Pappampalaym in Kumarapalayam Taluk.

For Petitioner : Mr.P.Ulaganathan

For Respondents 1 to 4 : Mr.P.Sanjay Gandhi
Government Advocate

ORDER

The order of cancellation dated 30.01.2019 cancelling the free house site patta granted to the petitioner is under challenge in the present writ petition.

2. The petitioner was holding a post of an Assistant Commandant in Border Security Force, Ministry of Defence and retired from service. The petitioner filed W.P.No.1580 of 1996 seeking a direction to the respondents therein to consider his application dated 07.04.1995 and assign the land



measuring 0.03 cents in survey No.138 of Pallipalayam Agraharam Village,
Tiruchengode Taluk, Salem District.

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3. This Court passed an order on 04.10.1999 that “It is but proper for the respondents to consider the claim of the petitioner sympathetically and if any suitable unobjectionable site is available, the same may be assigned in favour of the petitioner expeditiously.”

4. The learned counsel for the petitioner states that pursuant to the orders passed by this Court, he was assigned a free house site patta long back ie. on 09.05.2017. The patta was granted on condition to construct a house site within a period of twelve months. Further condition was imposed that one house alone is to be constructed. The authorities at the time of field inspection found that the petitioner has not constructed any house and not even in possession of the house site allotted in favour of the petitioner.

5. Considering the fact that the petitioner has not taken possession of the property nor constructed a house within a period of twelve months, the Revenue Divisional Officer, Thiruchengode passed the impugned order in



proceeding dated 30.01.2019 cancelling the free house site patta granted in favour of the writ petitioner.

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6. Admittedly, the petitioner is a retired Assistant Commandant and receiving substantial amount of monthly pension from the Government of India. The defence personnel has got many other facilities even after retirement. Free house site patta is meant for landless poor people and the State Government has to allot free house site for most deserving people and in the opinion of this Court, a retired Assistant Commandant from the Border Security Force, cannot be construed as a deserving person for the purpose of availing the benefit of free house site patta from the hands of State Government. The competent authority has stated that the petitioner is not falling within the priority category and not fulfilling the income criteria fixed by the State Government for grant of free house site patta.

7. No doubt, the service of the uniform personnel in army, BSF etc. is to be appreciated. However, they cannot seek any house site at free of cost from the State Government, since they may not be falling under the category of landless poor people.



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8. However, in the present case, the petitioner was assigned with a free house site patta in the year 2017 and he has not complied with the condition as stipulated in the assignment. The petitioner failed to construct the house in the said land and not even taken possession of the said land.

9. This being the factum, this Court do not find any infirmity in respect of the order impugned passed by the third respondent.

10. With these observations, this writ petition stands dismissed. No costs.

10.07.2023

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Speaking order
Neutral Citation : Yes



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S.M.SUBRAMANIAM, J.

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