



WEB COPY

WP No.6223 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10-08-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.6223 of 2023

K.Gunasekaran

... Petitioner

Vs.

1.The District Collector,
Vellore District,
Vellore.

2.The Tahsildar,
Tahsildar's Office,
Katpadi Taluk,
Vellore District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the entire records connected with the impugned order in Na.Ka.B2/2441/2022 dated 30.12.2022 passed by the second respondent and quash the same and consequently direct the respondents to issue patta in favour of the petitioner.



For Petitioner : Ms.R.Gobika
For Respondents : Mr.C.Jayaprakash,
Government Advocate.

ORDER

The order dated 30.12.2021 passed by the Tahsildar, Katpadi rejecting the claim of the petitioner for grant of free house site patta, is under challenge in the present writ petition.

2. The petitioner states that he belongs to Scheduled Caste Community and was in possession and enjoyment of an extent of 4.02 acres of Anatheenam Poramboke Punja Lands in Survey No.331 in Aayagoundanur Village, Katpadi Taluk, Vellore District.

3. The petitioner states that he is in possession of the subject land for many years. The petitioner filed civil suit in OS No.348 of 1989 for permanent injunction, which was granted in his favour against other private parties.

4. The petitioner submitted an application for grant of patta,



which was not considered and the impugned order has been passed on the ground that the particular Survey Number, in which the petitioner is in occupation has been classified as 'Leprosy Hospital'.

5. The learned counsel for the petitioner states that the classification was made long before and no Hospital has been constructed so far, since the petitioner is in occupation of the said land. Thus patta may be granted in respect of the said land in favour of the writ petitioner.

6. The learned Government Advocate appearing on behalf of the respondents raised an objection by stating that the entire land has been classified as 'Poramboke' and a portion of the land has been classified as 'Karisal Ground Poramboke' and other portion of the land has been reserved for 'Depressed Class People' for the land assigned to them based on their status such as landless agricultural labour having meagre annual income as prescribed by the Government. The S.No.331 is one among them reclassified as 'Assessed Waste Dry (D.C)'.

7. The respondents further states in paragraph-12 of the counter



that as per G.O.Ms.No.3076, Health Department dated 03.10.1952 (Taluk File No.B1.8312/1952 dated 24.12.1952), the poramboke lands measuring about 25 acres in S.No.328/2, 349, 362 classified as unassessed waste dry lands and the S.No.328/1, 331, 332/1, 333, 334/2, 345/1A and 345/2 classified as assessed waste dry lands were entered in the Taluk and Village Prohibitive Order Book, as they are required for future special public purposes.

8. The petitioner has contended in 'Grounds' that RSO No.15(2)(2), specifically bars that land reserved for Scheduled Caste need not however be entered in the Prohibitive Order Book and that his request for assignment of land being rejected is bad in law and is totally not acceptable, since such lands' details, entries should be made in the Settlement Register and the Village Adangal as per the said section of the said R.S.O., to avoid the assignment of land to free of cost to the landless agricultural labourers, since it is required for bona fide special public purposes.

9. Unauthorised encroachments by private individuals in the



lands covered by the said G.O.Ms.No.3076, Health Department dated 03.10.1952 are being treated as objectionable and penalty including Land Tax is being levied informing the encroaches that the encroached land should not be assigned to them in future.

10. Examining the above vital points, the petitioner's request for the assignment of land in S.No.331 of Kandipedu Village covered in the said 'Government Order' could not be considered favourable and hence was rejected in Katpadi Tahsildar's Order in RC B2.2441/2022 dated 30.12.2022

11. Assignment of free land patta cannot be claimed as an absolute right. The said free land pattas are granted based on the Welfare Scheme, if any, in force and scrupulously following the terms and conditions stipulated for availing the benefit of the Scheme.

12. Mere submission of an application would not confer any right to claim free land patta or otherwise. On identification of land, the Competent Authorities are bound to consider the application submitted by several persons based on the merits, majority and based on the terms and



conditions stipulated therein.

13. Thus the petitioner cannot occupy the Government property and claim free patta in respect of some property. If at all the petitioner is eligible, he has to submit an application and such an application is to be considered along with all other applications submitted by various other persons and assignment of free land is to be granted by following the procedures as contemplated.

14. It is not as if the person can occupy the above poramboke land and claim patta in respect of the land occupied by them. Such an occupation, encroachment would not confer any right to claim patta. Thus this Court do not find any infirmity in respect of the order passed by the respondents. However, the petitioner is at liberty to submit an application for grant of free land patta if he is otherwise eligible and in the event of receiving any such application, it is to be considered along with all other application submitted for such assignment or otherwise.

15. The petitioner cannot seek any preference or merely by



filing the present writ petition, he cannot secure free land patta or otherwise.

The discrimination amongst the citizen in any form in the matter of extending Welfare Scheme benefits are unconstitutional and all applications submitted by the eligible persons are to be considered without causing any discrimination.

16. It is not as if the persons, who all are capable of occupying the Government lands must be provided with free patta or otherwise.

17. With the above observations, the present writ petition stands dismissed. However, there shall be no order as to costs.

10-08-2023

Index : Yes/No

Internet: Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

Svn

S.M.SUBRAMANIAM, J.



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