



W.P.No.7564 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2023

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.7564 of 2023
and WMP.No.7677 of 2023

N.Kannagi

... Petitioner

-Vs-

1. The District Collector
Dharmapuri District, Dharmapuri.
2. The Tahsildar
Karimangalam Taluk, Dharmapuri District.
3. The Special Tahsildar
Adi Dravidar and Tribal Welfare Department
Dharmapuri.
4. The Executive Officer
Karimangalam Town Panchayat
Karimangalam Taluk, Palacode Taluk
Dharmapuri District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the respondents 2 to 4 from interfering with the peaceful possession and enjoyment and demolishing the existing sheet house and carrying on any construction of anganwadi school or any other building in the petitioner's Plot No. 127 measuring 3 cents Survey No.16/3 A1, Anna Nagar, Karimangalam Taluk.



W.P.No.7564 of 2023

For Petitioner Mr.R.Ramesh Raja

For Respondents Mr.A.M.Ayyathurai
Government Advocate
for R1 to R3

Mrs.E.Ranganayaki
for R4

ORDER

This writ petition has been filed for the issue of a writ of mandamus forbearing the respondents 2 to 4 from interfering with the peaceful possession and enjoyment of the subject property and not to carry on with any construction of Anganwadi school or any other building in Plot No.127 measuring 3 cents in Survey No.16/3A1, Anna Nagar, Karimangalam Taluk.

2.The case of the petitioner is that the subject property was allotted in favour of the husband of the petitioner in the year 1991 under the Scheme. The husband of the petitioner also erected a thatched shed in the said Plot. The husband of the petitioner died on 27.02.2021, leaving behind the petitioner. Thereby, the petitioner is claiming to have inherited the subject property.

3.The grievance of the petitioner is that the respondents are attempting to take over the property and construct an Anganwadi school without even putting the petitioner on notice. Aggrieved by the same, the present writ petition has been filed before this Court.

4.The second respondent has filed a counter affidavit. The relevant portions in the



W.P.No.7564 of 2023

affidavit are extracted hereunder:

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8. I respectfully submit that after the issuance of the above free assignment patta in the year 1979, subsequently the then 3rd Respondent herein without the prior approval of the 1st Respondent herein, through his proceedings Na.La.No.810/91 Dated:20-05-1991 had issued free assignment patta to additional 7 families of MBC Category including, Mr. Nadu Thambi S/o. KolandhaiMesthri (the husband of the Petitioner herein) and Mr. Madhan S/o. Mr. Nadu Thambi (the son of the Petitioner herein) for the Plots No. 127 and 134 respectively in the Subject Lands, classified to be utilised for the common purpose of original allottees.

9.I humbly submit that even after the receipt of the above Plot, the husband of the Petitioner failed to construct a house in the plot allotted to him I further submit that as per the Assignment patta conditions, an allottee must construct a dwelling within a period of 3 years from the date of grant of assignment patta. While that being so, the Petitioner's husband in the year 2000, approached the Office of the 3d Respondent and requested for the transfer of his Assignment to Mr. Madhan Kumar, son of Ranga Swamy, residing in the Karimangalam Village. I further submit that at the same time the Petitioner's husband Mr.Naduthambi sold the Plot: No. 127 to Mr. Madhan son of Mr. Settu @ Rangasamy on 29-06-2000, through an unregistered Sale Document.

10.I humbly submit that the request of the Petitioner's husband was processed and the Patta for the Plot No.127 was transferred to Mr. Madhan Kumar, son of Ranga Swamy by and through the proceedings of the then 3rd Respondent in Na.112/2000(C) Dated: 25-06-2000. I submit that after the



W.P.No.7564 of 2023

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transfer of the above Plot No. 127 to Mr. Madhan Kumar, the Petitioner and her family had shifted to Palacode Town and are residing there till date, by constructing a house to their name. I submit that the distance between the Place of residence of the Petitioner and the Subject Lands is around 20 Kms. I further submit that at the time of transfer of the Plot No. 127, it was an empty and vacant place without any buildings or any other temporary structures.

11.I respectfully submit that the contentions of the Petitioner in the Para 3 and 4 of the present Petition is strictly denied and the Petitioner is put to strict proof of the same. I submit that in the year 2021, at the request made by the Original allottees, a Government Child Care facility (***commonly known as "Angan Wadi Center"***) was proposed to be constructed in the common utilization place in the Subject Lands. I submit that a preliminary field inspection was made in the Subject Lands and it was found that the subsequent allottees of the year 1997 has not constructed any dwelling houses in the Subject Lands and has violated the mandatory assignment patta conditions, which in turn de-facto curtails the right of the subsequent allottees over the Subject Lands (including Plot No. 127).

12.I humbly submit that after the approval from the District Administration for the construction Government Child Care Facility, the Karimangalam Panchayat authorities begun their construction works in the common purposes land in the Subject Lands in the month of February 2023. I submit that on 24.02.2023, the work for construction of the above-mentioned facility was initiated. Mr.Settu @ Rangasamy objected to the above construction claiming the ownership of the Plot No.127 and tried to put up an temporary structure using metal sheets.



W.P.No.7564 of 2023

13. I respectfully submit that realising the gravity of the situation, police officials were called on to the Subject Lands and the efforts to occupy the Plot No. 127 in the Subject Lands by Mr. Settu @ Rangasamy was thwarted. I submit that after the officials had left the Plot No. 127, on the very same day Mr. Settu @ Rangasamy raised a temporary structure using metal sheets and encroached the Subject Lands illegally.

14. I humbly submit when Mr. Settu @ Rangasamy was called on to the Office of the 2nd Respondent for enquiry, Mr. Settu @ Rangasamy stated that his son Mr. Madhan Kumar vide an unregistered Sale Deed had purchased the Plot No.127 from the Petitioner's Husband Mr. Nadu Thambi, for a valid sale consideration and claimed the rights of the Plot No. 127 in the Subject Lands. I submit that the Plot No. 127 was originally allotted to the Petitioner's Husband Mr. Naduthambi in the year 1991 and the assignment patta was transferred to Mr. Madhan Kumar in the year 2000, at the request made by the Petitioner's husband.

15.I respectfully submit that when the above incidents were apprised to the Mr.Settu @ Rangasamy, that the patta issued in favour of his son Mr. Madhan Kumar is an assignment patta and same differs from the normal patta issued to the owners of the lands. I further submit that Mr. Settu @ Rangasamy was further apprised that as per the Assignment condition, his son was supposed to construct a dwelling house within a period of 3 years from the date of issuance of the assignment patta and since his son also had failed to construct



W.P.No.7564 of 2023

the same, his patta also stands cancelled automatically. I that when the above incidents were made to the knowledge of the Mr.Settu @ Rangasamy, he went away without any issues.

5.Heard Mr.R.Ramesh Raja, learned counsel for the petitioner, Mr.A.M.Ayyathurai, learned Government Advocate for R1 to R3 and Mrs.E.Ranganayaki, learned counsel appearing for R4.

6.In the considered view of this Court, the petitioner has approached this Court by concealing materials facts. It is amply clear from the counter affidavit filed by the second respondent that the husband of the petitioner had already transferred the property in favour of one Madhan Kumar in the year 2000 itself and the said Madhan Kumar had also applied for transfer of property in his name and the third respondent through proceedings dated 25.06.2000 transferred Plot No.127 in favour of Madhan Kumar. The husband of the petitioner died in the year 2021 and the petitioner is now trying to take advantage of the fact that the original allotment was made in the name of her husband.

7.The petitioner has concealed material facts and the petitioner has no *locus standi* to maintain this writ petition since the property has already been transferred and that the transfer is in violation of the original allotment order. In view of the same, this Court does not find any merits in this writ petition.



W.P.No.7564 of 2023

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8. Accordingly, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

20.04.2023

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Internet : Yes/No

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

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W.P.No.7564 of 2023

N.ANAND VENKATESH, J.

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W.P.No.7564 of 2023

20.04.2023