



WA No.406 of 2023 etc. batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA , CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WA Nos.406, 417, 389, 402, 385, 411, 384, 408 and 2867 of 2023

WA No.406 of 2023

Ramakkal @ Thulasi : Appellant

versus

1.The State of Tamil Nadu,
rep. By the Secretary, Revenue Department,
Fort St.George, Chennai 9

2.The District Collector, Erode District

3.The Revenue Divisional Officer,
Cutcherry Main Road,
Gobichettipalayam

4.The Tahsildar,
Taluk Office, Sathyamangalam

5.The Sub Inspector of Police,
Punjai Puliampatti Police Station

6.The Superintendent of Police,
Erode District

7.Kaliappan : Respondents

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Prayer: Writ appeals filed under Clause 15 of the Letters Patent against the common order of the learned Single Judge dated 03.01.2022 in WP Nos.13479, 13518, 13489, 13516, 13524, 13521, 13513, 13523 of 2019 and the order dated 02.03.2022 passed in W.P.No.2214 of 2022.

For the Appellants in all Was. : Mr.R.Vijayan

For Respondents 1 to 6
in all WAs. : Mr.T.K.Saravanan,
Government Advocate

COMMON JUDGMENT

(Made by the Hon'ble Chief Justice)

We have heard Mr.R.Vijayan, learned counsel for the appellants and Mr.T.K.Saravanan, learned Government Advocate for respondents 1 to 6.

2. The appellants/original writ petitioners had filed writ petitions before the learned Single Judge challenging the order passed by the third respondent; whereby pattas granted to the appellants were cancelled.

3. The learned Single Judge dismissed the writ petitions. Aggrieved thereby, the present writ appeals have been filed.



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4. The learned counsel for the appellants submitted that even without issuing notice to the appellants, patta was cancelled; and if some adverse action has to be initiated against the petitioners, notice ought to have been issued; that possession cannot be taken by the respondents without taking recourse before the civil court. The learned counsel submitted that the provisions of law are violated and that the respondents have to prove that the appellants have violated the terms of assignment/grant.

5. The learned Government Advocate submits that the appellants were granted patta with a condition that within one year from the date of issuance of patta, houses shall be built. Patta was issued on 15.08.1996. The appellants, without even getting proper approval/ permission from the third respondent, had sold out their respective house sites and violated the condition No.9.

6. It is further submitted by the learned Government Advocate that after the cancellation of free house site pattas, the fourth respondent has issued free house site pattas to the new beneficiaries. All the new beneficiaries are in possession and enjoyment of their



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respective plots.

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7. We have considered the submissions. The appellants were allotted free house site pattas. The conditions imposed while issuing free house sites pattas to the appellants are as under:

“(1) That only one house should be built upon the site.

(2) That a thatched / tiled or terraced building of the description and dimension indicated in the accompanying schedule shall be built and completed within a period of one year from the date of 15.08.1996.

...

(9) If without the previous approval of the Revenue Divisional Officer in writing the land is alienated by way of sale, gift, mortgage or lease of any kind within a period of ten years from the date of the grant, or ceases to be owned by the original grantee or his legal heirs owing to sale by process of law or otherwise for a like period, the grant will be liable to be resumed by the Government who will be entitled to re-enter and take possession of the site without payment of compensation either the period of 10 years mentioned above, the



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written permission of the Revenue Divisional Officer should be obtained before disposal of the site. This prohibition does not, however, apply to the hypothecation of the site (together with any buildings erected on it) to a Co-operative Society. The prohibition shall not also apply to the bonafide letting of a house put up by the assignee on the site. The power of resuming the grant and ordering re-entry referred to above will vest in the Revenue Divisional Officer.

...

(14) The land shall be resumed, if in the opinion of the Government any of the conditions of the grant has been contravened. If any question arises whether there was a contravention of any of the conditions of the grant or not it shall be referred to the Government and their decision shall be final.”

8. The appellants could not demonstrate before the learned Single Judge nor before this Court that they had constructed houses and are residing there. On the contrary, the case of the respondents is that the appellants did not construct houses on the free site issued; however, have sold out to third parties and violated condition No.9.



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9. The free house site pattas were given to the appellants considering the fact that they did not possess any accommodation. It is further clear that as the appellants did not construct the houses but sold the allotted plots to third parties, the respondents, after cancelling the patta, have now allotted the said free house site pattas to the new beneficiaries and they are in occupation of the same.

10. In light of the above, no error has been committed by the learned Single Judge. The writ appeals stand dismissed. There will be no order as to costs. Consequently, CMP Nos.3795, 3751, 3735, 3818, 3862, 3828, 3738 of 2023 are closed.

(S.V.G., CJ.)

(D.B.C., J.)

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