



W.P.No.21527 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.21527 of 2023

and

W.M.P.No.20894 of 2023

R.Chandiraiyan

... Petitioner

Vs.

- 1.Government of Tamilnadu,
Rep. by its Secretary,
Revenue Department,
Fort.St.George, Chennai.
- 2.The Commissioner of Land Administration,
Ezhilagam,
Chennai.
- 3.The District Collector,
Chengalpattu District,
Chengalpattu.
- 4.The District Revenue Officer,
Tambaram,
Chengalpattu District.



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5.The Tahsildar,
Vandalur,
Chengalpattu District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 2nd respondent to consider and pass orders on the appeal petition pending in reference no.4880444/2023 dated 30.05.2023 to allot/assign the land to the petitioner, measuring 1.42.0 hectares, comprised in S.No.81A/13 situated at Kezhakottaiyur Village, then Thirupporurur Taluk now Vandalur Taluk, Chengalpattu District under Ex-Serviceman quota.

For Petitioner : Mr.S.Gopinathan

For Respondents : Mr.D.Ravichander,
Special Government Pleader

ORDER

The writ petition has been filed for directing the 2nd respondent to consider and pass orders on the appeal petition pending in reference no.4880444/2023 dated 30.05.2023 to allot / assign the land to the petitioner,

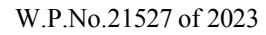


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measuring 1.42.0 hectares, comprised in S.No.81A/13 situated at Kezhakottaiyur Village, then Thiruporur Taluk now Vandalur Taluk, Chengalpattu District under Ex-Serviceman quota.

2. The petitioner states that he is an Ex-Servicemen, who joined army services in the year 1980 and served in 4 Corps Operating Single Regiment till 1989. Five acres of land in S.F.No.148/31C of Melakottaiyur Village was in occupation of the father of the writ petitioner, who was an encroacher. The petitioner submitted a representation to allot the said land in his favour. He further states that he was in possession and enjoyment of the land and he had filed a Civil Suit in O.S.No.399 of 2009 on the file of the Chengalpattu Munsif Court to protect his possession. Under the scheme, the petitioner is eligible for allotment of 5 acres under the Ex-Servicemen category. Since the petitioner was in occupation of the Government land to an extent of 5 acres, he had made an application to allot the said land to him.

3. The petitioner had filed a writ petition in W.P.No.18532 of 2011, challenging the order of rejection dated 23.07.2011 passed by the Tahsildar, Chengalpet and to direct the respondents to allow the land measuring 5 acres



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4. Pursuant to the order passed in the said writ petition, the District Collector, on considering the representations submitted by the writ petitioner, had elaborately passed an order in the proceedings dated 11.05.2023, against which the petitioner preferred an appeal, which is yet to be disposed.

5. The learned counsel for the petitioner made a submission that the petitioner is an Ex-Servicemen and 5 acres of land in his occupation was taken away by the IIT Administration for development of educational activities. The petitioner has identified an alternate land pursuant to the observation made by this Court in the writ petition and the said alternate land identified was not allotted to the writ petitioner and hence he had filed another writ petition and the matter was remanded back to the District Collector for fresh consideration. Instead of allotting the land, the District Collector rejected the same and thus, the petitioner has preferred an appeal.

6. This court is of the considered opinion that directing the appellate authority to dispose of the appeal at this length of time would do no service to the cause of justice. The petitioner will be back again by filing another writ petition. The petitioner has already filed several civil suits and writ petitions



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and attempted to get an allotment of Government land by giving an undertaking that he is ready to pay the market value of the property.

Government cannot act as a realtor to sell the Government property in favour of the private individuals. The Government largesse are to be made only in the public interest and for the welfare of the public at large. Therefore, it is not as if the Government is empowered to have a property deal with the private persons for the purpose of alienating the Government property. The Government largesse, if granted for the benefit of an individual, it is liable to be set aside by the Courts. The principles in this regard are settled by the Apex Courts in catena of judgments.

7. Let us now consider the elaborate order of the District Collector. The representation submitted by the petitioner was taken into consideration and the District Collector has elaborately considered the properties possessed by the writ petitioner and his family members. The petitioner is already owning several properties and his family members also own properties. That apart, the petitioner is running a manufacturing industry in the name and style of 'Sri Thirumala Hollow Blocks' and manufacturing Hollow Blocks, Solid Blocks and Paving Blocks. From the above business, he is earning huge amounts. The



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brothers of the petitioner are joint-owners of the business. That apart, the petitioner is also receiving pension from the Government of India, since he is an Ex-servicemen.

8. Under these circumstances, the District Collector formed an opinion that allotment of land by the Government is to be made only to poor homeless people and the scheme cannot be implemented for the purpose of merely allotting the Government land to the persons, who otherwise have properties and run business. Thus, the District Collector held that the petitioner is an ineligible person for allotment of Government land.

9. In respect of the properties identified by the writ petitioner, the District Collector made a finding that the said land is situated in the outskirts of Chennai city and the market value of the said property is about Rs.19,98,34,928. Therefore, the petitioner is not entitled for the allotment of the Government land, either on receipt of market price or at free of cost.

10. The petitioner is an Ex-servicemen and he has served in the Indian



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army, who is also receiving a very decent pension from the Government of India. His father encroached upon 5 acres of land and the petitioner also was in possession of the encroached land for some time. The said encroached land was taken away by the Government for the benefit of IIT, Chennai.

11. Mere observation of this Court to consider the case for alternate allotment would not confer any right on the petitioner to seek such allotment as an absolute right. Any such allotment is to be made subject to the eligibility by the Government and therefore, the authorities competent are empowered to assess the eligibility of a person. In the event of allotting such vast extent of Government land to ineligible person, it will set a wrong precedent and the similar request will be made by several such persons, which will result in an anomalous situation and therefore, this Court do not find any infirmity in respect of the decision taken by the District Collector, which is otherwise in consonance with the principles established.

12. In view of the facts and circumstances, the petitioner has not established even a semblance of legal right for the purpose of considering the relief. Merely directing the appellate authority to decide the issues again



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would prolong the matter and therefore, this Court is not inclined to do so.

The petitioner is not eligible for allotment of any Government land.

13. Accordingly, the writ petition stands dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

20.07.2023

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Index : Yes

Speaking order

Neutral Citation : Yes

To

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S.M.SUBRAMANIAM, J.

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