



W.P.No.17187 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 06.03.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.17187 of 2014

and

M.P.No.1 of 2014

and

W.M.P.No.263 of 2022

P.Manivannan

...Petitioner

Vs.

1.Union of India,
Rep.by the Secretary to Government,
Government of Puducherry,
Puducherry.

2.The Deputy Collector (Revenue)
Cum Estate Officer,
Government of Puducherry,
Karaikal.

3.Tahsildar,
Taluk Office,
Thirunallare,
Government of Puducherry,
Karaikal,
Karaikal District.



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4.Mr.Rajagopal,
Tahsildar,
Taluk Office,
Thirunallare,
Karaikal.

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the entire records pertaining to the order passed in proceedings No.6236/DCR/KKL/B4/Encr/2022-23 dated 13.04.2022 on the file of the 2nd respondent and quash the same and directing the 2nd respondent to allot an alternative house site to the petitioner besides directing the respondents to pay a sum of Rs.5,00,000/- as damages/compensation to the petitioner for their unconstitutional, unlawful and illegal acts committed on 27.05.2014. (Prayer amended vide order dated 11.01.2023 made in W.M.P.No.261/2023 in W.P.No.17187/2014)

For Petitioner	: Mr.R.Natarajan
For R1 to R3	: Dr.B.Ramaswamy Additional Government Pleader (Puducherry)
For R4	: No appearance



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ORDER

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The amended relief sought for in the present writ petition is to call for the entire records pertaining to the order passed in proceedings dated 13.04.2022 on the file of the 2nd respondent and quash the same and to direct the 2nd respondent to allot an alternative house site to the petitioner besides directing the respondents to pay a sum of Rs.5,00,000/- as damages/compensation to the petitioner for their unconstitutional, unlawful and illegal acts committed on 27.05.2014.

2. The petitioner was in occupation of site, measuring smaller extent in R.S.No.161/8, O.S.No. 280/Pt, Thirunallare Revenue Village, Thirunallare Taluk, Karaikal. Action was initiated under Section 4 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 and admittedly, the petitioner was evicted.

3. The learned counsel for the petitioner made a submission that the respondents have not only forcibly evicted the petitioner, but behaved rudely and their conduct, while evicting the petitioner was inhumane and thus, the petitioner is constrained to seek compensation.



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4. However, during the pendency of the writ petition, this Court directed the authorities to consider the application submitted by the writ petitioner for granting alternate site in accordance with the rules in force. Consequently, the petitioner submitted an application, which was considered by the authorities by conducting an enquiry. The Deputy Collector (Revenue), Karaikal, passed the impugned order in proceedings dated 13.04.2022, rejecting the application submitted by the writ petitioner mainly on the ground that the wife of the writ petitioner Smt.Nilavazhagi is owning a property and therefore, the petitioner is not entitled for allotment of an alternate house site as per the provisions of the Pondicherry Land Grant Rules, 1975.

5. With reference to the reasons stated in the impugned order, the learned counsel for the petitioner drew the attention of this Court with reference to Section 2(h) of the Pondicherry Land Grant Rules, 1975, which defines “*Landless Person*” means a person who owns no land or who hold a total extent of less than half hectare of land of dry, or a total extent of quarter hectare of wet, irrigated or garden land.”



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6. The findings in the impugned order states that as per the Tahsildar report dated 17.03.2022, the writ petitioner Thiru.Manivannan is residing along with his family in a site, which stands in the name of his wife Mrs.Nilavazhagi vide Document No.19732/2020 dated 16.10.2020. While perusing the Encumbrance certificate obtained from the office of the Sub-Registrar, Thirunallar, there is no remarks of mortgage existing in the Encumbrance certificate as said by the petitioner during the enquiry.

7. Thus, the authorities arrived a conclusion that the property clearly stands in the name of the petitioner's wife Tmt.Nilavazhagi. Regarding the contention that the wife of the petitioner is owning a small extent of land and therefore, eligible as per Rule 2(h) of the Pondicherry Land Grant Rules, 1975. The Rule stipulates that *“a person who owns no land or who hold a total extent of less than half hectare of land of dry, or a total extent of quarter hectare of wet, irrigated or garden land”*.



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8. The petitioner cannot be brought under the category of the persons, who owns no land, because his wife owns a land and his family is residing there. Priority is to be granted in accordance with the rules. Thus, the first priority is to be granted to the persons, who owns no land. Therefore, the petitioner is not falling under the first category. Regarding the second category, who hold a total extent of less than half hectare of land of dry, it is not a dry land, which the petitioner's wife owns. It is a house site, in which the petitioner and his family members are residing. Therefore, even the second category is also inapplicable to the petitioner, so also third category, which speaks about total extent of quarter hectare of wet, irrigated or garden land. The extent of land would be material only if the land is a wet land, irrigated or garden land. But, if it is a small extent of house site, then such lands are not covered under Rule 2 (h) of the Pondicherry Land Grant Rules, 1975.

9. Therefore, the arguments advanced in this regard deserves no merit consideration. The order of priority even as per Rule 2 (h) would be that a person, who owns no land is to be given first priority and the further priority is to be granted to the persons, who owns lesser extent of dry land and



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thereafter, wet, irrigated or garden land. This being the order of preference, which is to be understood for the purpose of implementing the provisions of the Pondicherry Land Grant Rules, 1975.

10. A person, who is owning a land in his wife name and residing in the place cannot be considered as a landless person and thus, the writ petitioner has not established that he is eligible under the rules for grant of alternate land.

11. Accordingly, the writ petition is devoid of merits and stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

06.03.2023

Index : Yes
Speaking order
Neutral Citation: Yes
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To
1. The Secretary to Government,
Union of India, Government of Puducherry,
Puducherry.



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S.M.SUBRAMANIAM, J.

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