



W.P(MD)No.239 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.02.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.239 of 2023

P.Ponmurugan

... Petitioner

Vs

1.The District Collector,
Madurai District,
Madurai.

2.The Tahsildar,
Madurai South Taluk,
Madurai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the second respondent to issue house site patta in the petitioner's name in S.No. 46/12 in Plot No. 4 and 5 Each 3 Cents, total extent of 6 cents situated at Puliyankulam Village, Madurai South Taluk, Madurai District, based on the petitioner's representation dated 21.12.2022 within a stipulated time in accordance with law.

For Petitioner : Mr.P.S.Sundaram

For Respondents : Mr.M.Lingadurai
Special Government Pleader



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ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Special Government Pleader appearing for the respondents.

2.The petitioner seeks issuance of patta for the petition mentioned plots. He gave a representation dated 21.12.2022. Since it was not considered, the present writ petition came to be filed.

3.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to issue positive direction to the second respondent for issuance of patta in favour of the writ petitioner.

4.The respondents have filed a detailed counter affidavit and the learned Special Government Pleader took me through its contents. The stand of the respondents is that the petition mentioned plots were originally assigned in favour of one Bhoopathy and Renga Ramanujam. The assignees did not comply with the condition to put up construction within six months. It is therefore proposed to cancel the assignment itself. The proposal has been received and final order is likely to be passed. The other contention is that



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there is a condition in the original assignment order that there should be no alienation since thirty years. Since the basic conditions set out in the assignment orders have been breached, the petitioner's request cannot be granted. The learned Special Government Pleader pressed for dismissal of the writ petition.

5.I carefully considered the rival contentions and went through the materials on record. Though the affidavit filed in support of the writ petition is not rich in details, omission has been made good by filing additional typed set of papers enclosing the various sale transactions that have taken place during the intervening period. Plot No.4 was assigned in favour of Bhoopathy while Plot No.5 was assigned in favour of Renga Ramanujam. The assignments were made in 1972. It is not as if assignments were made only in favour of Bhoopathy and Renga Ramanujam alone, a number of assignments were made assigning various plots in the vicinity. One Kamala who is also a subsequent purchaser like the petitioner herein, approached the jurisdictional Tahsildar for issuance of patta. The request was rejected. She filed W.P(MD)No.1671 of 2010. Vide order dated 14.12.2016, her writ petition was allowed and the order impugned therein was quashed. The jurisdictional Tahsildar was directed to issue patta in her favour in respect of the plot in question. The Government



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filed W.A(MD)No.66 of 2018 questioning the said order passed by the learned Single Judge. The Hon'ble Division Bench dismissed the appeal vide order dated 15.02.2018. The Hon'ble Division Bench noted that since the original assignment was granted in 1972 and the first sale took place in 1979, it is difficult for the official respondents to go for cancellation of the original assignment. In that view of the matter, the order passed by the learned Single Judge was sustained.

6.In my view, the very same reason will apply in the case on hand also. Since the assignment was made prior to 1973, it would not be possible for the authorities to go for cancellation since three years period had already expired. Since assignments in the case on hand were made in the year 1972, it is not possible for the respondents to go for cancellation at this point of time. That would be legally impermissible.

7.As regards Condition No.16, the assignment order will states that the alienation cannot be made for a period of 30 years. As rightly pointed out by the learned counsel appearing for the petitioner, the said condition will not apply to allottees who do not belong to Scheduled Caste community. It is not the case of the respondents the original assignees, namely, Bhoopathy and



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Renga Ramanujam belonged to Scheduled Caste community. In this view of the matter, the second respondent is directed to issue patta in favour of the petitioner in respect of the petition mentioned lands. This shall be done within a period of five weeks from the date of receipt of a copy of this order.

8.This writ petition is allowed on these terms. There shall be no order as to costs.

22.02.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA

To

1.The District Collector,
Madurai District,
Madurai.

2.The Tahsildar,
Madurai South Taluk,
Madurai District.



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G.R.SWAMINATHAN, J.

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