



W.P.(MD)No.2769 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.10.2023

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THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.(MD)No.2769 of 2021

and

W.M.P.(MD)Nos.2263 and 2264 of 2021

Renugadevi, W/o.Radhakrishnan

.. Petitioner

Versus

1.The District Collector,
Virudhunagar Disrtict, Virudhunagar.

2.The Revenue Divisional Officer,
Sivakasi, Virudhunagar District.

3.The Tahsildar,
Sivakasi Taluk, Virudhunagar District.

4.The Zonal Depauly Tahsildar,
Sivakasi Taluk,
Sivakasi, Virudhunagar District.

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the Impugned Online rejection Order dated 18.12.2020 of the fourth respondent relating to the petitioner's property in Survey Nos. 30/30 and 30/31, situated at Narayanapuram Village, Thiruthangal, Sivakasi Taluk, Virudhunagar District, quash the same and consequently, direct the fourth respondent to pass Patta name transfer order in the Patta Nos.1708 and 1709 in the petitioner's name with regard to her property in Survey Nos.30/30 and



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30/31, situated at Narayanapuram Village, Thiruthangal, Sivakasi Taluk, Virudhunagar District.

For Petitioner : Mr.M.R.Sreenivasan
For Respondents : Mr.A.K.Manikkam
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the impugned online rejection order dated 18.12.2020 of the fourth respondent and the petitioner has sought for a consequential direction to the fourth respondent to issue Patta in her name with respect to the subject properties in Survey Nos.30/30 and 30/31 at Narayanapuram Village, Thiruthangal, Sivakasi Taluk, Virudhunagar District.

2. The case of the petitioner is that the subject properties were originally assigned in favour of one Tamil Selvi and Subbiah Nadar and the said Tamil Selvi and the Subbiah Nadar were in possession and enjoyment of the properties and Pattas were also issued in their favour in Patta Nos.899 and 900 respectively. While so, one Vijaya Antony had purchased the properties from the legal heirs of Tamil Selvi and the legal heirs of Subbiah Nadar through the registered sale deeds, dated 09.01.2014, bearing Documents Nos.170 and 171 of 2014.



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3. The further case of the petitioner is that the Revenue Divisional Officer through the impugned proceedings, dated 15.10.2015, had cancelled the assignment order made in favour of the said Tamil Selvi and Subbiah Nadar and this was challenged by the said Vijaya Antony by filing a Writ Petition before this Court in W.P.(MD)No.15358 of 2016. This Writ Petition was allowed by an order dated 07.11.2016. For proper appreciation, the relevant portions in the order are extracted hereunder:-

"6.The learned counsel appearing for the petitioner produced a copy of the original order of assignment, wherein, a careful reading of the order of assignment, there is no such condition was imposed. Since there is no condition in the order of assignment that the assignees should put up construction within a reasonable time, the respondent cannot cancel the order of assignment on the ground that the assignees failed to put up construction in the assigned land. Apart from that, the impugned order was also passed without issuing proper notice to the assignees, and before passing the order of cancellation, the second respondent ought to have give an opportunity of hearing to the assignees. Even in the counter affidavit filed by the respondents, it is stated that only A-1 notice has been published in the Village and it is also not specifically stated as to whether any individual notice has been issued to the assignee or not, hence, the impugned order has been passed in total violation of principles of natural justice.

7. In the above-said circumstances, the impugned order passed by second respondent is set aside and the writ petition is allowed. No costs. . Consequently, connected miscellaneous petitions are closed."



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4. Pursuant to the above order, Patta was also issued in favour of Vijaya Antony in Patta Nos.1708 and 1709. Thereafter, the said Vijaya Antony represented through his Power of Attorney General sold the subject properties in favour of the petitioner through the registered sale deeds dated 10.09.2020. The petitioner, on purchase of the said properties, made an application seeking for Patta in her name. This application came to be rejected by the fourth respondent on the ground that the properties have been categorized as "Government Poramboke". Aggrieved by the same, the present Writ Petition has been filed before this Court.

5. The third respondent has filed a counter affidavit. The third respondent has taken a stand that the assignment that was given in favour of Tamil Selvi and Subbiah Nadar was cancelled by the Revenue Divisional Officer in the year 2015 and in view of the same, the properties were restored back to its original position and they were categorized as "Government Poramboke Lands". In view of the same, the respondents have sought for dismissal of the Writ Petition.

6. Heard Mr.M.R.Sreenivasan, learned counsel appearing on behalf of the petitioner and Mr.A.K.Manikkam, learned Special Government Pleader appearing on behalf of the respondents.



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7. The impugned online rejection order of the fourth respondent has proceeded on the basis that the properties have been restored as "Government Poramboke Lands" by virtue of the cancellation of the assignments made in favour of Tamil Selvi and Subbiah Nadar by the proceedings of the Revenue Divisional Officer, dated 13.10.2015. Unfortunately, the third respondent did not take into consideration the fact that the said order has been set aside by this Court in W.P.(MD)No.15358 of 2016. Till date, no Writ Appeal has been filed against the said order and the order passed by this Court has become final. Subsequently, Patta was also issued in favour of the vendor of the petitioner. Therefore, the impugned online rejection order of the fourth respondent becomes unsustainable in the eye of law. By virtue of the order passed by this Court, setting aside the cancellation of the assignment order, there is no question of restoring the properties back in the name of the Government.

8. In the light of the above discussion, the impugned online rejection order of the fourth respondent is hereby set aside and there shall be a direction to the fourth respondent to process the application of the petitioner and to transfer Patta in her name within a period of four weeks from the date of receipt of a copy of this order.



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9. In the result, this Writ Petition is allowed with the above direction.

No costs. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes/No
Index : Yes/No
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To

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