



W.P.(MD)No.4669 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.12.2023

C O R A M

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.4669 of 2021

and

W.M.P.(MD)Nos.3784 and 3785 of 2021

Jothipriya

... Petitioner

-VS-

1.The District Collector,
Ramanathapuram District.

2.The Sub Collector,
Sub Collector Office, Ramanathapuram,
Ramanathapuram District.

3.The Tahsildar,
R.S.Mangalam Taluk,
Ramanathapuram District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of cancellation of petitioner house site assignment passed by the second respondent in his proceedings in Muu.Mu. (A3)/4407/2020, dated 19.12.2020, which affixed in petitioner's house door on 18.02.2021, quash the same as illegal insofar as the petitioner is concerned



W.P.(MD)No.4669 of 2021

and consequently, forbearing the respondents evicting the petitioner from her natham land in Survey No.46/21, measuring an extent of 0.00.90 Square Meter, situated at Ananthanenthal, Sathanur Post, R.S.Mangalam Taluk, Ramanathapuram District.

For Petitioner : Mr.K.Saravanan

For Respondents : Mr.B.Saravanan
Additional Government Pleader

ORDER

This Writ Petition has been filed challenging the impugned proceedings of the second respondent, dated 19.12.2020, and for a consequential direction to forbear the respondents from evicting the petitioner from the subject property.

2. The case of the petitioner is that she is a house less poor and was continuing to possess and enjoy a grama natham land in Survey No.46/21, measuring an extent of 0.00.90 m² at Sathanur Post, R.S.Mangalam Taluk, Ramanathapuram District. Under the free house site scheme, the petitioner made a representation seeking for house site Patta in her name. An enquiry was conducted and it was found that the petitioner is eligible for the free house site Patta. Based on the same, the free house site Patta was granted in



W.P.(MD)No.4669 of 2021

favour of the petitioner by the third respondent through proceedings, dated 27.08.2019. Thereafter, the petitioner renovated the house and was in possession and enjoyment of the same.

3. The grievance of the petitioner is that all of a sudden, the second respondent proceeded to pass the impugned order, dated 19.12.2020, and thereby, the assignment made in favour of the petitioner was cancelled. Aggrieved by the same, the present Writ Petition has been filed before this Court.

4. Heard the learned counsel appearing on behalf of the petitioner and the learned Additional Government Pleader appearing on behalf of the respondents.

5. The main ground that was urged by the learned counsel for the petitioner is that the cancellation of assignment was made without issuing notice to the petitioner and without affording opportunity to the petitioner. Therefore, it was contended that the impugned proceedings of the second respondent is violative of the principles of natural justice.



W.P.(MD)No.4669 of 2021

6. The learned Additional Government Pleader appearing on behalf of the respondents submitted that the petitioner was already owning a property and a report was also filed in this regard by the Tahsildar and considering the same, the assignment was cancelled, since the petitioner was found to be not entitled for assignment under the category of landless poor. Therefore, the learned Additional Government Pleader sought for the dismissal of this Writ Petition.

7. In the considered view of this Court, the assignment has already been made in favour of the petitioner by the third respondent. By virtue of the same, the petitioner has obtained a right over the property. If this right is to be withdrawn/cancelled, the petitioner has to be issued notice and opportunity must be given to her and only thereafter, the assignment can be cancelled. This minimum requirement has not been fulfilled by the second respondent and the impugned order of the second respondent is vitiated due to violation of principles of natural justice. Therefore, the same is liable to be interfered by this Court.



W.P.(MD)No.4669 of 2021

8. In the result, the proceedings of the second respondent, dated 19.12.2020, is hereby quashed and the matter is remanded back to the file of the second respondent and the second respondent is directed to issue fresh notice to the petitioner and afford an opportunity to her and pass orders on its own merits and in accordance with law. This process shall be completed by the second respondent within a period of three months from the date of receipt of a copy of this order.

9. This Writ Petition is allowed with the above directions. No costs. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes/No
Index : Yes/No
smn2

11.12.2023

To

- 1.The District Collector,
Ramanathapuram District.
- 2.The Sub Collector,
Sub Collector Office, Ramanathapuram,
Ramanathapuram District.

5/7



W.P.(MD)No.4669 of 2021

3.The Tahsildar,
R.S.Mangalam Taluk,
Ramanathapuram District.

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W.P.(MD)No.4669 of 2021

N.ANAND VENKATESH, J.

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W.P.(MD)No.4669 of 2021

11.12.2023