



W.P(MD)No.13651 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2023

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.13651 of 2023

S.Kulandaisamy

... Petitioner

Vs.

1.The Secretary to the Government,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Chennai-600 009.

2.The District Collector,
Collectorate,
Sivagangai District.

3.The Special Tahsildar
(Adi Dravidar & Tribal Welfare),
Sivagangai,
Sivagangai District.

4.The Tahsildar,
Tahsildar Office,
Manamadurai Taluk,
Sivagangai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents herein to restore the patta in its original position in all the revenue records pertaining to the land in S.Nos.187/1E, 187/1F and 187/1G in total to an extent of 0.57.5 Hectares in D.Nedugulam Village, Therkusanthanur Group,



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Manamadurai Taluk, Sivagangai District in the light of the order dated 28.03.2001 passed in W.P.No.9476 of 1993 before this Principal Bench of this Court within a time stipulated by this Court.

For Petitioner : Mr.S.Vashik Ali
For R1 to R3 : Mr.N.Muthuvijayan
Special Government Pleader

ORDER

The Writ Petition has been filed in the nature of a mandamus seeking a direction to the respondents to restore the patta in original position in all revenue records relating to the land in survey No.187/1E, 187/1F and 187/1G totally measuring 0.57.5 hectares in D.Nedugulam Village, Therkusanthanur Group, Manamadurai Taluk, Sivagangai District.

2. An order has been passed earlier in W.P.No.9476 of 1993 dated 28.03.2001 by the Principal Bench of this Court and the petitioner seeks the relief of mandamus consequent to that particular order. It is therefore, only appropriate that the said order is examined by this Court.

3. The learned Special Government Pleader had taken notice on behalf of the respondents and had taken this Court through the said order. The reasoning



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of the learned Judge who passed such an order flowed first from paragraph No.

3 which is extracted below:

"3. It is on record that at the time when this writ petition was entertained, an order of interim stay of dispossession was granted in W.M.PNo.14638 of 1997, while permitting the respondents to complete all other proceedings. The said order continue to operate even as on date and no steps was taken to vary that order. Therefore, it is hard to believe that while passing an award on 7.1.1992, physical possession was also taken from the petitioners on the very same day. In the above said background when the various grounds urged by the petitioners are considered, though the petitioner would contend that there was no proper service of notice for the enquiry to be held under Section 5A. Having regard to the fact that the petitioners were able to file their objections in the 5A enquiry it is explicit that the petitioners had clear notice of the said enquiry. Therefore, the said submission made on behalf of the petitioners no longer survives."

4.It is also seen that the petitioners therein, in paragraph No.6, had been recorded as having come forward with a definite offer to surrender 5 acres of land belonging to the third petitioner's situated at Survey No.27/3. As on date, that particular surrender has not been made.



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5. The learned counsel for the petitioner states that the petitioner is ready to surrender the lands. But if such readiness is to be believed as bonafide, then by this time when two decades have gone, the 5 acres should have already been surrendered. The 5 acres have not been surrendered. There is no averment in the affidavit that the petitioner is ready to surrender the 5 acres. It is also seen that the land of the third petitioner in the aforementioned writ petition, was the land to be surrendered.

6. The writ petitioner herein is the son of the third petitioner. He should first surrender the 5 acres of land. He has not done so. He has not given any indication that he would be surrendering the said 5 acres of land. Hoping and trusting that such 5 acres of land would be surrendered, further orders had been passed in the said writ petition at paragraph No.7 which is extracted in its entirety.

'7.Further, it is contended that in the land sought to be acquired there are about 143 fully grown palm trees which averment made in the affidavit has also not been specifically denied by the respondents. Therefore, the cumulative fact of all the above stated circumstances only lead to the conclusion that the proceedings impugned in the writ petition is allowed and it is left open for the respondents to take appropriate proceedings for



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acquiring the land offered by the petitioners for fulfilling the purpose of providing house sites to the Adi-dravidars as proclaimed under the impugned notification dated 13.06.1990, after giving due opportunity to the petitioners and all parties concerned. Consequently, connected WMP, is closed."

7. Though the proceedings had been set aside, still it was left open to the respondent to take appropriate proceedings for acquiring the land offered by the petitioner for fulfilling the purpose of providing house sites. The land offered by the petitioner was 5 acres. That offer has only been in paper and had not been carried out in letter and spirit by the petitioner herein as legal heir of his father Savarimuthu. The entire issue is malafide in nature. The petition has been filed not with any bonafide intentions, but, to mislead the Court. The petitioner should have by this time surrendered the 5 acres of land. Respondents could have acquired that 5 acres of land and could have allotted it to various needy persons.

8. The petitioner has effectively, by putting up that particular suggestion before the learned Judge in the earlier proceedings, had misled the Court into passing the order.



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9. This writ petition stands dismissed. The entire averments are misleading. Costs will have to be imposed on the petitioner. Costs of Rs. 50,000/- is imposed on the petitioner herein to be paid on or before 31.07.2023 to the District Legal Service Authority, Sivagangai. The Chairperson, District Legal Service Authority, Sivagangai, may inform the District Collector, Sivagangai, if costs has not been paid on or before 31.07.2023. If costs have not been paid, then the District Collector, Sivagangai, is directed to initiate revenue recovery proceedings against the petitioner herein for recovery of the cost amount.

10. This Writ Petition stands dismissed. Cost Rs.50,000/- to be paid on or before 31.07.2023, to the District Legal Service Authority, Sivagangai.

12.06.2023

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

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To

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Adi Dravidar and Tribal Welfare Department, Secretariat, Chennai-600 009.
- 2.The District Collector, Collectorate, Sivagangai District.
- 3.The Special Tahsildar (Adi Dravidar & Tribal Welfare), Sivagangai,
Sivagangai District.
- 4.The Tahsildar, Tahsildar Office, Manamadurai Taluk, Sivagangai District.



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C.V.KARTHIKEYAN, J.

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