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W.P.(MD)NO.14828 OF 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.07.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.14828 of 2014 AND
W.M.P.(MD)Nos.1 & 2 of 2014

Arunthathi

... Petitioner

Vs.

1. The District Adi-Dravidar Welfare Officer,
District Adi-Dravidar Welfare Officer,
Pudukkottai,
Pudukkottai District.

2. The Tahsildar,
Ponnamaravathy,
Pudukkottai,
Pudukkottai District.

3. The Special Tahsildar,
District Adi-Dravidar Welfare Office,
Pudukkottai.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records comprised in proceedings bearing Na.ka.No.Q3/22628/2011 dated 01.08.2014 on the file of the 1st respondent and quash the same and consequently direct the respondents 1 and 2 to not to disturb the peaceful possession and enjoyment of the property by the petitioner.



For Petitioner : Mr.G.Mathavan

For Respondents : Mr.S.Shanmugavel,
Additional Government Pleader.

* * *

ORDER

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

2. The question that arises for consideration in this writ petition is whether the impugned order cancelling the petitioner's assignment is liable to be interfered with.

3. The petitioner was allotted 3 cents of land by the third respondent in the year 2009. It has been cancelled by the impugned order primarily on the ground that the petitioner has share in landed properties and that the petitioner is occupying 9 cents of land belonging to common area.

4. This Court while admitting the writ petition had stayed the impugned order. To vacate the same, counter affidavit has been filed and



the learned Additional Government Pleader appearing for the respondents took me through its contents. The learned Additional Government Pleader submitted that the reasons set out in the impugned order are sustainable and he pressed for dismissal of the writ petition.

5. I carefully considered the rival contentions and went through the materials on record.

6. The writ petitioner belongs to Scheduled Caste community. She is a woman. She is also suffering from blindness. Having made the allotment in the year 2009, it does not lie in the mouth of the third respondent to say that the petitioner is ineligible when there is no subsequent development. It is not the case of the respondents that the petitioner indulged in misrepresentation. Of course in the counter affidavit, it has been alleged that the petitioner has encroached 9 cents of land belonging to the public. The allotment order reads that the petitioner was given assignment of 3 cents of land. The petitioner has to confine her rights and enjoyment to the allotted 3 cents of land alone. If the petitioner has encroached any land beyond the land allotted to her, the same shall be removed by the authorities after following due process of law. The



order passed in this writ petition will not come in the way.

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7. I also do not find any merit in the objection that the petitioner has share in landed properties. Even according to the respondents, the properties referred to in the impugned order belong to the petitioner's father-in-law. The petitioner's father-in-law is very much alive. The presumption is that the petitioner's husband will get a share in the property. That is an uncertain event that belongs to future. In any event, possession of landed properties by the father-in-law cannot be put against the petitioner. He cannot be included in the definition of the term “family”. Therefore, having made the allotment after verifying the records, the respondents cannot now put forth the reason set out in the impugned order. The order impugned in the writ petition is set aside. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

03.07.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes / No
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To:

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District Adi-Dravidar Welfare Officer,
Pudukkottai,
Pudukkottai District.
2. The Tahsildar,
Ponnamaravathy,
Pudukkottai,
Pudukkottai District.
3. The Special Tahsildar,
District Adi-Dravidar Welfare Office,
Pudukkottai.



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G.R.SWAMINATHAN,J.

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