



W.P(MD)No.10189 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.09.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.10189 of 2015

and

M.P.(MD)No.1 of 2015

Uma

... Petitioner

Vs.

1.The Tahsildar,
Madurai North Taluk Office,
Madurai.

2.The President,
Kovilpappakudi Village Panchayat,
Pothumbu Post,
Madurai-18.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the Impugned Order passed by the 1st Respondent in Na.Ka. No. 9103/2013/B1 dated 30.10.2013 and quash the same and consequently direct the 1st Respondent to conduct a fresh enquiry after giving an opportunity to the petitioner.

For Petitioner : Mr.J.Senthil Kumariah

For Respondents : Mr.D.Gandhiraj
Special Government Pleader for R1



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: Mr.M.Alaguthevan for R2

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ORDER

Heard the learned counsel on either side.

2. The writ petitioner belongs to Hindu Navaneethan Community. She was given assignment patta in the year 1993. The village panchayat wanted to put up a fair price shop in the assigned site. A request was made to the petitioner and the petitioner obliged the local body. The petitioner was instead permitted to put up construction in Survey No.79, Kovilpappakudi Village. The panchayat also passed resolution in her favour. The petitioner has been residing in Survey No.79 ever since. The petitioner wanted patta to be issued. Since her request was not considered, she filed W.P.(MD)No.4180 of 2013. The writ petition was disposed of on 19.03.2013 by this Court in the following terms:-

“3. The petitioner was originally residing at Survey No.252/6, corresponding to old Survey No.62/1. Subsequently, she was evicted from the said property and the property in Survey No.79 at Kovilpappakudi was given to her. While the petitioner was in possession of the property, the panchayat passed a resolution on 02.10.2009 recommending the authorities to grant her patta. The petitioner originally submitted a representation before the second respondent on 25.01.2010. Since the said representation was not taken note of by the Tahsildar, she approached the first respondent with a representation on 25.07.2011. Even then, there was no action at the instance



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of the revenue authorities. This made the petitioner to file this writ petition.

4. The question as to whether the petitioner is eligible for patta is essentially an issue to be decided by the second respondent. The petitioner has produced a copy of the representations dated 25.01.2010 and 25.07.2011. There is nothing on record to show that the second respondent took any action pursuant to those two representations. Therefore, I am of the view that the matter requires consideration by the second respondent.

5. In the result, a writ in the nature of a writ of mandamus is issued directing the second respondent to consider and dispose of the representation submitted by the petitioner on 25.01.2010 on merits and as per law. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this order. It is made clear that I have not considered the merits of the matter and it is for the concerned Tahsildar to decide the issue purely on merits. The petitioner is directed to enclose a copy of the representation dated 25.07.2011 along with a copy of this order and forward the same to the second respondent so as to enable the said authority to consider the matter at the earliest.”

Pursuant to the direction given by this Court, the Tahsildar, Madurai North passed the impugned memorandum dated 30.10.2013 rejecting her request. Challenging the same, 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 set aside the impugned order and grant relief as prayed for.

4. The learned Additional Government Pleader on the other hand submitted that the impugned order is well reasoned and that it does not call for



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interference.

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5. I carefully considered the rival contentions and went through the materials on record. The impugned memorandum rejecting the petitioner's request for issuance of patta rests on two grounds.

(I) The petitioner is not permanently residing in kovilpappakudi village and that she has another residence in Lingavadi.

(II) Patta cannot be issued in respect of her land classified as cart track.

6. The petitioner's counsel points out that the ration card issued in favour of the petitioner in Lingavadi had been cancelled. He would add that the petitioner is a permanent resident of kovilpappakudi village. This contention of the petitioner's counsel is correct. But then, the cancellation of the petitioner's Lingavadi ration card took place on 22.01.2014. The impugned order was passed on 30.10.2013. Therefore, the Tahsildar, Madurai North Taluk Office cannot be faulted for concluding that the petitioner cannot be considered as a permanent resident of kovilpappakudi Village. However, I take note of the subsequent development.

7. As rightly pointed out by the learned Additional Government Pleader, patta cannot be issued in respect of a cart track. It has been held in many



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decision that a road has to be maintained as a road for all times to come.

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8. I am therefore not in a position to interfere with the impugned order. At the same time, equities obtaining in this case cannot be lost sight of. Admittedly, the petitioner was given assignment. It is also beyond dispute that she complied with the demand of the local body for exchanging the assigned site so that a fair price shop can be constructed. That is why, the local body also passed resolution in her favour.

9. Considering these aspects, status quo need not be disturbed for the present. If due to compelling reasons, the petitioner has to be vacated, the first respondent shall give reasonable notice to the petitioner. The petitioner shall be given alternative site for two cents of land. The petitioner will be given sufficient breathing time to shift to the site that may be allotted to her alternatively. Thus, protecting the rights of the petitioner, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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G.R.SWAMINATHAN, J.

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To

The Tahsildar,
Madurai North Taluk Office,
Madurai.

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