



W.P(MD).No. 13711 of 2015

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.02.2023

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THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P(MD)No.13711 of 2015
and
M.P(MD) Nos.1 and 2 of 2015

Theivam

..... Petitioner

- Vs-

1. The District Collector,
Madurai District,
Madurai.
2. The District Adi Dravidar/Schedule Tribe
Welfare Officer,
Collector Office Premises,
Madurai.
3. The Special Tahsildar,
Land Acquisition/ Adi Dravidar Welfare,
Usilampatti,
Madurai District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the second respondent vide her proceeding in Na.Ka.No.178724/1989/Adi7, dated 11.06.2015 and



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quash the same as illegal and consequently direct the respondents to restore the patta in the name of the petitioner.

For Petitioner : Mr.M.Maran

For Respondents : Mr.M.Prakash
Additional Government Pleader

ORDER

This writ petition has been filed challenging the order passed by the second respondent cancelling the assignments given in favour of the petitioner.

2. The learned counsel for the petitioner would submit that no notice whatsoever had been issued to the petitioner calling upon to explain as to why assignment granted to him should be cancelled. He would submit that the Government had acquired lands in the year 1980 for grant of house site to Adi Dravidar People and after the acquisition proceedings were completed and after various Court proceedings, assignment of lands was made in favour of the petitioner. Thereafter, they have been in peaceful possession and enjoyment of the property.



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3. While that being so, one B.Sivakumar who is the legal heir of the original land owner seems to have made a complaint to the respondents making allegations that patta has been issued in favour of ineligible persons. Based on his complaint, the authority/the second respondent without issuing any notice had cancelled the deed order of assignment. Being aggrieved against the same, he had filed present writ petition.

4. Countering his arguments, the learned Additional Government Pleader appearing for the respondents would submit that the lands were assigned to the petitioner in the year 2002, based on their representations. Since a complaint was made by one of the legal heirs of the erstwhile land owners alleging that there have been irregularities in assignment of land, the enquiry was conducted and it was found that out of 79 beneficiaries, 29 were ineligible on various grounds. Hence, the order of cancellation has been passed. He would further submit that the petitioner was found ineligible and therefore there is no error or infirmity in the impugned order.

5. I have considered the rival submissions made by the learned counsel on either side.



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6. Even though the second respondent had raised issue of ineligibility of the petitioner to assigned land, I do not propose to traverse into the aspects whether the petitioner is eligible or not. The impugned order had been passed without affording an opportunity to the petitioner who had been granted assignment as early as in the year 2002. This, in my view, is in violation of principle of natural justice.

7. Hence, this Writ Petition is allowed and the second respondent based upon the report received by him shall issue notice to the petitioner and after affording an opportunity of hearing, pass appropriate orders on merits and in accordance with law. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

14.02.2023

NCC: Yes / No
Index : Yes / No
Internet : Yes / No
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K.KUMARESH BABU, J.

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Order made in
W.P(MD)No. 13711 of 2015

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