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W.P.(MD)NO.4701 OF 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.08.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.4701 of 2015

Rani

... Petitioner

Vs.

1. The District Collector,
Pudukkottai District.

2. The Revenue Divisional Officer,
Illupur,
Pudukkottai District.

3. The Tahsildar,
Kulathur Taluk,
Pudukkottai District.

4. K.S.Mani

5. Arumugam

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent in Na.Ka.A6/6597/2012 dated 04.06.2013 and quash the same as arbitrary and illegal and direct the third respondent to restore the patta in favour of the petitioner in S.F.No.522/12 and 13 of Puliur Village at once.



For Petitioner : Mr.Ganapathi Subramanian
For R-1 to R-3 : Mr.S.Ra.Ramachandran,
Additional Government Pleader.
For R-4 & R-5 : No appearance.

* * *

ORDER

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

2. The writ petitioner's husband Thiru.Ravichandran served the Indian Army as soldier. Since retired army personnel do not get good pension, the Administrative Officer of Defence Services Staff College, Willington recommended the District Collector, Pudukkottai to consider the petitioner's application for allotment of land favourably. The first respondent called for field report from the third respondent. The third respondent vide proceedings dated 06.12.2006 assigned 40.5 ares of land in survey No.522/13 and 40.5 ares in survey No.522/12 in Puliur Village. The assignment was subject to certain terms and conditions. The assigned land was



duly earmarked and handed over to the petitioner.

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3.While so, the fourth respondent lodged a complaint before the Human Rights Commission. Thereafter, an enquiry was conducted and the petitioner's assignment along with the assignments made in favour of a number of persons were cancelled vide order dated 04.06.2013. Challenging the said cancellation, the present writ petition came to be filed.

4. The learned counsel appearing for the writ 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.

5. The learned Additional Government Pleader appearing for the official respondents submitted that the assignment order was a conditional order. While assigning the land, one of the conditions was that the assignee must bring the property to cultivation. Since the petitioner had not brought the land under cultivation within one year from the date of assignment, the impugned order came to be passed.



He called upon this Court to sustain the order and dismiss the writ petition.

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

7. The petitioner's husband had served the nation and that is why, his case was recommended to be considered by the Army authorities. The first respondent took cognizance of the said recommendation and directed the third respondent to consider the petitioner's application. The petitioner was identified as an eligible person and granted 81 cents of land in her favour. Before cancelling the order, the petitioner was not put on notice. The impugned order also does not reveal that the petitioner was enquired before cancelling the assignment. In the impugned order, it has been mentioned that in the assigned land, a semi-finished house was found to be standing and that she had planted coconut saplings. It is true that the assignment order reads that within one year after the assignment is made, the land must be brought into cultivation. If the respondents had conducted field inspection within one



year or on the expiry of one year they had found that the land had not been brought under cultivation, the third respondent would have been justified in cancelling the assignment order after issuance of notice. But that is not the case here. While the assignment was made way back in December 2006, the filed inspection was conducted on 31.05.2013. On the said date coconut saplings had been planted. There is nothing on record to show that the land was not brought under cultivation within one year. Therefore, the impugned cancellation of assignment insofar as the petitioner is concerned is set aside. This writ petition stands allowed. When the writ petition was admitted, interim stay was granted. The order of interim stay is made absolute. No costs.

07.08.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes/ No

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