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W.P.(MD)Nos.655 to 659 OF 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 02.09.2022

PRONOUNCED ON : 26.06.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.655 to 659 of 2017 AND
W.M.P.(MD)Nos.513 to 532 of 2017

W.P.(MD)No.655 of 2017

S.Muthumari

... Petitioner

Vs.

1. The District Collector,
Madurai District.

2. The District Revenue Officer,
Madurai.

3. The Revenue Divisional Officer,
Madurai.

4. The Tahsildar,
Madurai South Taluk,
Madurai.

... 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 relating to the proceedings of the order passed by the 3rd respondent in his proceedings in Na.Ka.No.14752/2007/C dated 03.08.2015 and the consequent impugned proceedings in Roc.



No.36118/2015/4J dated 15.12.2016 issued by the 2nd respondent and quash the same and further directing the respondents to restore the possession and enjoyment of the petitioner bearing Plot No.24, comprised in Old Survey No.994/1A and TS No.116, Arapalayam Main Road, Melmadurai, Madurai -16.

W.P.(MD)No.656 of 2017

P.Nishanthi

... Petitioner

Vs.

1. The District Collector,
Madurai District.
2. The District Revenue Officer,
Madurai.
3. The Revenue Divisional Officer,
Madurai.
4. The Tahsildar,
Madurai South Taluk,
Madurai.

... Respondents

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comprised in Old Survey No.994/1A and TS No.116, Arapalayam Main Road, Melmadurai, Madurai -16.

W.P.(MD)No.657 of 2017

M.Subbammal

... Petitioner

Vs.

1. The District Collector,
Madurai District.
2. The District Revenue Officer,
Madurai.
3. The Revenue Divisional Officer,
Madurai.
4. The Tahsildar,
Madurai South Taluk,
Madurai.

... 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 relating to the proceedings of the order passed by the 3rd respondent in his proceedings in Na.Ka.No.14752/2007/C dated 03.08.2015 and the consequent impugned proceedings in Roc. No.36118/2015/4J dated 15.12.2016 issued by the 2nd respondent and quash the same and further directing the respondents to restore the possession and enjoyment of the petitioner bearing Plot No.25, comprised in Old Survey No.994/1A and TS No.116, Arapalayam Main Road, Melmadurai, Madurai -16.



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W.P.(MD)Nos.655 to 659 OF 2017

W.P.(MD)No.658 of 2017

WEB COURT S.Bagavathi

... Petitioner

Vs.

1. The District Collector,
Madurai District.
2. The District Revenue Officer,
Madurai.
3. The Revenue Divisional Officer,
Madurai.
4. The Tahsildar,
Madurai South Taluk,
Madurai.

... 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 relating to the proceedings of the order passed by the 3rd respondent in his proceedings in Na.Ka.No.14752/2007/C dated 03.08.2015 and the consequent impugned proceedings in Roc. No.36118/2015/4J dated 15.12.2016 issued by the 2nd respondent and quash the same and further directing the respondents to restore the possession and enjoyment of the petitioner bearing Plot No.22, comprised in Old Survey No.994/1A and TS No.116, Arapalayam Main Road, Melmadurai, Madurai -16.

W.P.(MD)No.659 of 2017

M.Kaliammal

... Petitioner

Vs.



1. The District Collector,
Madurai District.

2. The District Revenue Officer,
Madurai.

3. The Revenue Divisional Officer,
Madurai.

4. The Tahsildar,
Madurai South Taluk,
Madurai.

... 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 relating to the proceedings of the order passed by the 3rd respondent in his proceedings in Na.Ka.No.14752/2007/C dated 03.08.2015 and the consequent impugned proceedings in Roc. No.36118/2015/4J dated 15.12.2016 issued by the 2nd respondent and quash the same and further directing the respondents to restore the possession and enjoyment of the petitioner bearing Plot No.18, comprised in Old Survey No.994/1A and TS No.116, Arapalayam Main Road, Melmadurai, Madurai -16.

(in all W.Ps.)

For Petitioner : Dr.Padma

For Respondents : Mr.R.Baskaran,
Additional Advocate General,
assisted by,
Mr.K.Balasubramani,
Special Government Pleader.

* * *



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COMMON ORDER

Heard the learned counsel appearing for the writ petitioners and the learned Additional Advocate General assisted by the learned Special Government Pleader appearing for the respondents.

2. The cases on hand pertain to assignments made in survey No.994/1 in Arapalayam Main Road, Melmadurai, Madurai. A resolution was passed by Madurai Corporation way back on 26.03.1979 for conversion of land and allotment. The proposed allottees were in occupation of the respective sites for a very long time. Even as the process was going on, the houses came to be demolished some time in the year 2005. Some of the parties moved the Court. They were non-suited. However, it was observed that dismissal of the writ petition will not stand in the way of the occupants from moving the revenue authorities for issuance of patta. On 01.10.2007, the fourth respondent issued assignment letters with sketch. The writ petitioners herein were assigned specific plots. Thereafter, there was a correspondence between the Corporation and revenue authorities for completing other formalities. Finally, G.O.(Ms)No.359 Revenue Department dated 29.09.2009 was



issued assigning 1 cent of land for each of the allottees. The District Collector issued proceedings on 10.11.2009 directing the jurisdictional Tahsildar to hand over the land to the assignees. Patta was issued on 20.07.2010 with a condition that the assignee must put up a construction on the assigned land. The petitioners were also directed to remit charges for physical measurement of the property. Though the petitioners complied with all the formalities, no survey was done and the plot allotted to the petitioners was never earmarked. In other words, what had happened so far was only on paper. There was no physical earmarking and handing over of the possession of the assigned plot.

3. At this stage without conducting any enquiry, the third respondent cancelled the patta. Challenging the action of the respondents and for directing the respondents to hand over the possession, the present writ petition has been filed.

4. In the counter affidavit, it has been admitted that as per the proceedings of the Tahsildar, Madurai South, dated 21.01.1979 there were as many as 23 occupants in survey No.994/1. It was used as Puthaikuli. It was classified as burial ground, but not used for the said



purpose. Therefore, proposal was given for converting the same as Natham poramboke and for assigning the same in favour of the occupants. Layout was prepared and approved on 25.01.1979 by the Deputy Director, Town and Country Planning Department. The Corporation council also endorsed the move. Inspection was conducted.

5. It was noticed that the original occupants were not there and that the property has been encroached and that the constructions have been put up without getting approval. Hence, the buildings were demolished and encroachments were removed. Thereafter, the authorities decided to issue patta to deserving persons. Allotment orders were issued on 22.07.2010. There was a condition that a residential house must be constructed within a period of one year or else the allotment itself will be forfeited. Since the petitioners have not complied with the condition as mentioned in the allotment order, the allotment was proposed to be cancelled. Since the petitioners could not be served for want of address for service, the respondents caused local publication by way of banners on 02.09.2011. Since no objection was received within one week, the impugned orders came to be passed. The cancellation orders were put to challenge. Thereafter enquiry was held. In the said enquiry, the



petitioners were given opportunity. Since the original authority was satisfied that the petitioners had not complied with the conditions of allotment, the appellate authority also concurred with the said finding. The argument of the learned Additional Advocate General is that the impugned orders are reasoned orders and that the petitioners have not made out a case for interference. The writ petitions deserve to be dismissed.

6. I carefully considered the rival contentions.

7. I went through the impugned orders. I could not locate the names of the petitioners in the impugned orders. But in the counter affidavit, such stand has not been taken. The respondents do not deny that the impugned orders do not pertain to the petitioners or the subject property. I therefore proceed on the premise that the petitioners are the aggrieved individuals and have *locus standi* to challenge the impugned orders. In fact the very same impugned orders were put to challenge in W.P.(MD)Nos.781, 333 and 3461 of 2017. There were set aside and allowed on 01.04.2019. Paragraph Nos.2, 3, 4 and 6 of the aforesaid order read as follows:-



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“ 2. It is seen from the materials enclosed in the typed set of papers that after the assignment orders were made, the assignees submitted petitions before the Tahsildar, Madurai, seeking measurement and demarcation of the assigned sites. The petitioners were asked to remit the fees. The petitioners complied with the said demand. Even thereafter, the revenue authority declined to carry out the exercise of survey, measurement and demarcation. As a result, the petitioners were not sure as to where they can put up the construction.

3. The authority cannot take advantage of their own wrong. Merely assigning a site and issuing proceedings and patta alone would not be sufficient. The authority will have to formally demarcate the assigned site and physically hand over the same to the assignees. It is because they did not do so, the assignees were not in a position to comply with the condition to put up a construction.

4. Since I have come to the conclusion that the assignees cannot be blamed for non fulfilment of the condition stipulated in the assignment order, the order impugned in these writ petitions stand quashed. These Writ Petitions are allowed. The jurisdictional Tahsildar is directed to carry out the work of survey, measurement and demarcation of the assigned sites within a period of twelve weeks from the date of



receipt of a copy of this order.

...

6. These Writ Petitions are allowed accordingly.

No costs. Consequently, connected Miscellaneous petitions are closed. ”

8. The present writ petitions are also similar and are founded on the same cause of action. Therefore, the present writ petitions should be allowed. The orders impugned in these writ petitions are set aside insofar as the petitioners are concerned. The respondents are directed to conduct survey and earmark one cent of land that was originally allotted and hand over the same to the respective petitioners. The petitioners of course should comply with the conditions of allotment, the moment possession is handed over to them. The exercise of earmarking and handing over the possession shall be completed within a period of twelve weeks from the date of receipt of a copy of this order. These writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

26.06.2023

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

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To:

1. The District Collector,
Madurai District.
2. The District Revenue Officer,
Madurai.
3. The Revenue Divisional Officer,
Madurai.
4. The Tahsildar,
Madurai South Taluk,
Madurai.



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W.P.(MD)Nos.655 to 659 OF 2017

G.R.SWAMINATHAN,J.

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W.P.(MD)Nos.655 to 659 of 2017

26.06.2023