



W.P(MD)No.26616 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.08.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.26616 of 2019

Akila (died)

2.Esakkimuthu

(2nd petitioner is impleaded vide order dated 22.08.2023
in W.M.P.(MD)No.16941 of 2023)

... Petitioner

Vs.

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2.The Special Tahsildar (Aadhi Thravidar Welfare),
Tiruchendur Taluk Office,
Tiruchendur,
Thoothukudi District.

... 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 entire records relating to the impugned order passed by the second respondent vide his proceedings in Na.Ka.No.A1/121/97, dated 12.11.2019 and to quash the same as illegal and arbitrary and consequently, to direct the respondents to re-issue Free House Assignment Patta to the petitioner in respect of the land in Plot No.67, to an extent of 0.01.20 Hectares situating in 107/6A4 & 107/6A5 in Keela Tiruchendur Village, Tiruchendur Taluk, Thoothukudi District and to



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hand over the above property to the petitioner by duly conducting demarcation within the time limit that may be stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu

For Respondents : Mr.R.Baskaran
Additional Advocate General
assisted by Mr.S.Shanmugavel
Additional Government Pleader

ORDER

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

2. The writ petitioner was granted assignment patta on 19.02.2019 by the second respondent. However, the assigned lands were not earmarked and formally handed over to the beneficiaries. The petitioner has already been representing to the authorities for physically handing over the assigned plot. At this stage, the impugned memorandum dated 12.11.2019 came to be issued by the second respondent cancelling the assigned patta. Challenging the same, the writ petition came to be filed.

3. After hearing the learned counsel appearing for the petitioner, the following order was passed on 09.08.2023:-

“Heard the learned counsel on either side.

2. The respondents have cited certain reasons in support of the



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cancellation order in the counter affidavit. One such reason is that some of the assignees are having own houses. But the details have not been given.

3. The respondents are directed to furnish specific particulars. The learned counsel for the petitioners informs the Court that some persons have started construction in the assigned area. Since this Court is seized of the matter, the respondents are directed to ensure that no further constructions takes place in the assigned land. The respondents shall produce all the relevant files.

4. Call this case on 14.08.2023.”

It was also argued that the impugned memorandum is based on the proceedings dated 25.10.2019 issued by the District Collector, Tuticorin. I wanted to know if the petitioner was put on notice before passing the impugned order. It is beyond dispute that the assignee was not put on notice before the assignment was cancelled.

4. The learned Additional Advocate General states that the Revenue Divisional Officer, Tiruchendur had submitted a report to the District Collector, Tuticorin that ineligible persons had been issued with assignment pattas. Spot inspection was earlier conducted on 16.09.2019 and it was concluded that the petitioner is not eligible and that is why, the District Collector, Tuticorin issued the aforesaid proceedings. That is the stand of the respondents. The submission of the learned Additional Advocate General does not still meet the question raised by this Court. The fact remains that the petitioner had not been issued with any notice of cancellation prior to passing of the impugned order.



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On this sole ground, the order impugned in the writ petition is set aside.

The learned Additional Advocate General submitted that the matter may be remitted to the file of the second respondent to pass an order afresh after holding an enquiry.

5. I am not inclined to make such remand. If any credible material has been placed before me to indicate that the writ petitioner was not eligible to get assignment, then, I would have definitely remanded the matter for fresh consideration. No material has been placed before this Court. Only some bald statements have been made by the officials. Therefore, the writ petition is allowed. It is of-course open to the respondents to initiate action for cancellation based on credible materials. The authorities cannot take their own sweet time. The authorities are directed to earmark the assigned plots and hand over the physical possession to the writ petitioner within a period of sixteen weeks from the date of receipt of a copy of this order. It is of-course open to the authorities to take action for cancellation in the mean while. No costs.

22.08.2023

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.



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