



W.P(MD)No.27865 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.11.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.27865 of 2023

V.Amsam

... Petitioner

Vs.

1.The Collector,
Collectorate,
Tuticorin District.

2.The Special Tahsildar,
Land Acquisition (Adi-Dravidar Welfare)
Ettayapuram Road,
Kovilpatti,
Tuticorin District.

3.The Tahsildar,
Taluk Office,
Kovilpatti,
Tuticorin District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents to change all revenue records and issue Patta in the name of the petitioner with regard to 3.02 acres in S.Nos. 482/1 and 482/2 Pandavarmangalam Village, Kovilpatti Taluk, Tuticorin District on the basis of the representation given by the petitioner dated on 20.09.2021 and 20.07.2022 to the respondents.



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For Petitioner : Mr.C.Emalias
For Respondents : Mr.M.Siddharthan
Additional Government Pleader

ORDER

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

2. The petitioner is an 85 years old woman. The only prayer made in the writ petition is for mutating the revenue record in respect of the petition mentioned land in her favour. The petitioner had given quite a few representations.

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 grant relief as prayed for. The petitioner's counsel insisted that the matter could be disposed of today itself considering the age of the petitioner and other circumstances.

4. In fact, the learned Additional Government Pleader wanted time. The instructing official is present and I called upon the said official to narrate the facts of the case. The case projected by the petitioner and the narration accord



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with each other. It is seen from the materials on record that 3.02 acres in the petition mentioned survey numbers were acquired along with a larger extent of land for distributing the same among landless poor people belonging to Adi Dravidar community. The lands stood in the name of one Sellathayammal who is none other than the petitioner's mother-in-law. The acquisition proceedings were assailed by the petitioner. The matter partly ended in favour of the petitioner before the Hon'ble Division Bench on 06.08.2009 in Writ Appeal Nos.161, 162 & 369 of 2006. In fact, the petitioner was not satisfied with the relief granted by the Hon'ble Division Bench. She wanted more. She filed S.L.P.Civil Nos.27585 & 27586 of 2009. SLPs were dismissed on 22.11.2010. Thus, the acquisition proceedings became final in respect of 16 acres. As regards the remaining 3.02 acres, it ended in favour of the petitioner. However, in the revenue record, classification in respect of the petition mentioned lands continued to reflect the name of the Adi Dravidar Welfare Department. Since the acquisition proceedings had ended in favour of the petitioner insofar as 3.02 acres are concerned, she filed W.P.(MD)No.9481 of 2014 for effecting mutation in the revenue record and for issuance of patta. The writ petition was disposed of on 27.01.2014 in the following terms:-

“2.The lands in question were subject matter of Land Acquisition Proceedings, which were challenged by the petitioner by filing W.P.(MD) No. 5470 of 1998. The said writ petition along with another connected case was



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allowed by the learned Single Judge of this Court, by order, dated 29.07.2005.

Aggrieved over the same, the District Collector, Tuticorin and the Special Tahsildar (IA), Adi Dravidar Welfare, Kovilpatti, filed W.A.(MD) Nos.161 and 162 of 2006, which were allowed, by judgment, dated 06.08.2009. In the interregnum, the respondents have classified the lands as Government lands in all the revenue records armed with the judgment passed by the Division Bench of this Court. The petitioner has submitted her representation, dated 18.04.2014, to the respondents, for changing the revenue records, but so far no action has been taken.

3.In view of the above, the third respondent is directed to consider the petitioner's representation, dated 18.04.2014 by taking note of the decision of the Hon'ble Division Bench of this Court, dated 06.08.2009 and pass orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. Since the District Collector was the acquiring authority, as the lands were acquired under the provisions of the State Act, the prior approval of the first respondent shall be obtained by the third respondent.”

5. Even though a clear direction was given as early as on 21.07.2014, the authorities did not take any consequential action. The authorities took the stand that only after getting clearance from the Government, mutation will be effected. Unable to wait any further, the petitioner filed W.P.(MD)No.19848 of 2021. The writ petition was dismissed as withdrawn on 17.04.2023. I wanted the learned counsel for the petitioner to explain the circumstances in which the



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writ petition came to be dismissed as withdrawn. The learned counsel submitted that the petitioner being a very aged person had strongly impressed upon her then counsel to do something in the matter and due to the communication gap, the said writ petition came to be dismissed as withdrawn.

6. The learned Additional Government Pleader would contend that the dismissal of W.P.(MD)No.19848 of 2021 would operate as *res judicata* for maintaining the present writ petition. Even though the learned Additional Government Pleader may be technically correct, in a case of this nature, the issue should not be approached from the technical perspective. When even according to the authorities, the land acquisition proceedings insofar as 3.02 acres had ended in favour of the petitioner and that too way back in the year 2009, the corresponding and consequential mutation in the revenue record should have taken place immediately. 13 years is a too long a time. Article 300A of the Constitution of India continues to recognise and protect property rights. Inaction on the part of the respondents is a clear infraction of the petitioner's constitutional right. In fact, this Court can even take *suo motu* contempt proceedings in view of inaction on the part of the respondents in not complying with the direction given in W.P.(MD)No.9481 of 2014 on 21.07.2014. The learned counsel for the petitioner states that he is not



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interested in initiating any contempt action and all that the petitioner wants is relief for herself.

7. I therefore dispose of the Writ Petition in the following terms:-

(I) The first respondent will satisfy himself that the acquisition proceedings in respect of 3.02 acres in the petition mentioned survey numbers had ended in favour of the petitioner.

(II) Since this writ petition is disposed of at the admission stage, it is open to the first respondent to verify the relevant records. This shall be done immediately and without any delay.

(III) Once the first respondent is satisfied that the petitioner's contention is correct, consequential mutation in the revenue record will be immediately made. It is not necessary for the first respondent to await any direction from the Government.

(IV) This exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

No costs.

24.11.2023

Index : Yes / No
Internet : Yes/ No
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NOTE: Issue Order Copy on 27.11.2023.



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To

WEB COPY

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G.R.SWAMINATHAN, J.

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