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W.P. Nos.12016, 12021 & 12025 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P. Nos.12016, 12021 & 12025 of 2024 and
W.M.P. Nos.13108, 13118 & 13124 of 2024

- | | |
|-----------------|--------------------------------------|
| 1.R.Mahalakshmi | ... Petitioner in W.P. No.12016/2024 |
| 2.S.Amutha | ... Petitioner in W.P. No.12021/2024 |
| 3.C.Jothi | ... Petitioner in W.P. No.12025/2024 |

Vs

- | | |
|--|---------------------------------------|
| 1.The District Collector
Namakkal
Namakkal District | |
| 2.The District Backward Class and Minority
Welfare Officer
District Backward Class and Minority
Welfare Office
Namakkal, Namakkal District | |
| 3.The Revenue Divisional Officer
Office of the Revenue Divisional Officer
Namakkal, Namakkal District | |
| 4.The Special Tahsildar (ADW)
Office of the Special Tahsildar
Namakkal, Namakkal District | ... Respondents in all Writ Petitions |



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Prayer: Writ Petitions filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records relating to the proceedings of the 2nd respondent in Na. Ka.14797/1999/B3 dated 9.2.2022 and quash the same as far as the petitioner's land in Plot Nos.33, 55 and 56 in Survey No.291/1A1 of Singalanthapuram Village, Rasipuram Taluk, Namakkal District.

For Petitioners : Dr.R.Gouri
in all WPs

For Respondents : Mr.A.Selvendran
in all WPs Spl. Govt. Pleader for R1 to R4

ORDER

Challenge has been made to the cancellation of the assignment patta issued in favour of the petitioners. Pattas have been issued in the name of the petitioners vide proceedings of the Special Tahsildar (ADW) in Na.Ka. No.133/99(A) dated 07.09.2000. After 22 years from the date of assignment, without giving an opportunity to the petitioners, the impugned orders dated 09.02.2022 came to be passed by the second respondent cancelling the assignment. Challenging the said orders, these writ petitions have been filed.



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2. Despite time granted to the official respondents to file their counter, they have not chosen to file their counter.

3. It is the contention of the learned counsel appearing for the petitioner that assignment pattas were granted to the petitioners under Adidravidar Welfare Scheme by the Special Tahsildar (ADW) in Na.Ka. No.133/99(A) dated 07.09.2000. Now the impugned orders have been passed by the Special Tahsildar recommending cancellation of the assignment, since the allottees have not constructed house as per the conditions stipulated in the assignment patta.

4. Learned counsel appearing for the petitioner has also brought to the notice of this court, a Government Order in G.O. Ms. No.34 dated 13.01.2021 issued by the Revenue and Disaster Management Department, where the Government has extended the time for a further period of three years for the construction of the house in the land assigned to the persons. Three years period will commence from the date of the Government Order, namely 13.01.2021. Therefore, within the extended period of time, these impugned orders have been passed by the respondents, without even giving any opportunity to the petitioners.



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5. The learned Special Government Pleader is not in a position to dispute the G.O. issued by the Government.

6. I have perused the Government Order in G.O. Ms. No.34 dated 13.01.2021 issued by the Revenue and Disaster Management Department and one of the clauses, namely clause 4(v)(b) (wrongly mentioned as (i) in the G.O.) reads as follows:

"b) Site is vacant as the original beneficiary has not constructed the house even after one year of assignment.

If the original beneficiary has not yet constructed the house as per the conditions to have constructed the house within a period of one year, there shall be a further extended period now available from the date of issue of this order for three more years to construct the house. Collectors shall take all efforts to sanction a free house under any Government scheme like PMAY, CMSPGH etc within the specified period of three years.



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The patta shall not be cancelled now for non-construction of house."

7. When the Government itself has extended the period for construction of the house and also directed the authorities to sanction a free house under any Government scheme to such persons to construct houses, however, the impugned orders came to be passed merely on the ground that house has not been constructed. The impugned orders also indicate that no opportunity whatsoever was given to the parties. In such view of the matter, when the impugned order violates the Government Order and also the principle of natural justice, the same cannot be sustained in the eye of law. Accordingly, the impugned orders are liable to be quashed.

8. In the result, all the three writ petitions are allowed and the impugned orders passed by the 2nd respondent in Na. Ka.14797/1999/B3 dated 9.2.2022 in respect of the petitioner's land in Plot Nos.33, 55 and 56 in Survey No.291/1A1 of Singalanthapuram Village, Rasipuram Taluk, Namakkal District, are quashed. The authorities are directed to sanction a free house in any Government scheme as directed in G.O. Ms. No.34 dated 13.01.2021



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issued by the Revenue and Disaster Management Department, to the petitioner so that the petitioners will be in a position to construct the house in the place where the pattas have been granted. No costs. Consequently, the connected writ miscellaneous petitions are closed.

27.06.2024

Index : Yes / No

Neutral Citation : Yes / No

Asr

To

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5. The Government Pleader
High Court, Madras

N.SATHISH KUMAR, J.



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