



W.A.No.2710 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE K. RAJASEKAR

W.A.No.2710 of 2024

and

C.M.P.No.19813 of 2024

Selvanathan

... Appellant

Vs.

1.The District Collector,
District Collectorate,
Kallakurichi & District.

2.The Tahsildar,
Kallakurichi & District.

... Respondents

Prayer:- Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 28.02.2024 in W.P.No.5049 of 2024 on the file of this Court.

For Appellant : Mr.V.Gunasekar

For Respondents : Mr.G.Krishna Raja
Additional Government Pleader

J U D G M E N T



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(Judgment was delivered by **S.S. SUNDAR, J.**)

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This Writ Appeal is directed against the order of the learned Single Judge dated 28.02.2024 in W.P.No.5049 of 2024.

2.The appellant got an assignment of a small piece of land measuring an extent of 34 sq.m. in S.No.126/22 and the appellant's wife Mrs.Mariya Natchathiram also got an assignment of another extent of 30 sq.m. in S.No.126/23. It is the case of the appellant that the appellant and his wife put up a house in the small piece of land measuring 700 sq.ft. After putting up construction, the appellant found that the lands in respect of which assignment was given in favour of the appellant and his wife were still shown as Government Poramboke (house site) in the Revenue records and no patta had been issued to the appellant and his wife in their favour. The appellant submitted a representation for mutation of Revenue records in favour of the appellant and his wife in S.Nos.126/22 and 126/23. Alleging that his representation was not considered, the appellant approached this Court by filing the writ petition in W.P.No.5049 of 2024 for issuance of a Writ of Mandamus directing the respondents to consider the appellant's



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representation dated 21.12.2023 and mutate all Revenue records in favour of the appellant and his wife in respect of S.Nos.126/22 and 126/23. The said writ petition was dismissed at the admission stage.

3.For convenience, the nature of order passed by the learned Single Judge while dismissing the writ petition is extracted as below :

“5.Though in paragraph No.3 of the affidavit, the petitioner has stated that he has already got assignment in his favour in S.No.126/22 and his wife has got assignment in S.No.126/23, the present Writ Petition is filed seeking direction to consider the petitioner's representation and mutate the all revenue records in his favor in respect the Survey Nos.122/22 and 122/23. The learned counsel for the petitioner submits that the petitioner has got only houses and they don't have any vacant land for further construction and therefore, they seek vacant site.

6.Page No.11 of the typed set annexed with this petition also shows that already a vacant site was assigned to the wife of the petitioner in Survey No.126/23 and Page No.21 shows that another house site was assigned in favour of the petitioner in S.No.126/22. Since the petitioner has already got assignment



in his name and also in his wife's name, the petitioner is not entitled for any further house sites.

7. Therefore, this Writ petition is dismissed at the admission stage itself. No costs.

8. Before parting with this case, this Court directs the District Collector/1st respondent to issue notice to the petitioner and to the wife of the petitioner and conduct enquiry and submit a report before this Court as to how, more than one house sites were allotted to the petitioner's family. After conducting enquiry, if it is found that the petitioner's family has got more than one house sites in this village or any other villages, the same shall be cancelled, except one."

4. Challenging the order of the learned Single Judge, the above Writ Appeal is filed.



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5.The learned Single Judge did not notice that the assignment was in respect of a small extent of 30 and 34 sq.m. respectively in favour of appellant's wife and appellant himself. There is nothing wrong in getting an assignment in the name of appellant and his wife, as anyone can put up a construction for their residence at least in an extent of 400 sq.ft., and it is not contrary to any Revenue Standing Order, especially when the extent is too small. When the prayer in the writ petition was to consider the representation for mutation of names in tune with the assignment, it is unfortunate that the writ petition was dismissed with a further direction to hold enquiry and to submit a report as to how there can be allotment of more than one site. This Court is unable to sustain the order of the learned Single Judge for assuming facts wrongly. There is no reason why the assignment should be cancelled or patta can be denied.

6.Therefore, this Writ Appeal is allowed and the order of the learned Single Judge, dated 28.02.2024, made in W.P.No.5049 of 2024, is set aside. The respondents are directed to consider the representation of the appellant for mutation of Revenue records in tune with the assignment in favour of the



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appellant and his wife, and pass appropriate orders on merits and in accordance with law, within a period of 16 weeks from the date of receipt of a copy of this judgment. However, if it is found that the appellant and his wife got assignment contrary to any Government Order or guidelines, it may be open to the respondents to take appropriate action for cancelling assignment by following the procedure as per law. No costs. Consequently, connected miscellaneous petition is closed.

(S.S.S.R., J.) (K.R.S., J.)
09.09.2024

mkn

Internet : Yes

Index : Yes / No

Neutral Citation : Yes / No

To

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District Collectorate,
Kallakurichi & District.

2.The Tahsildar,
Kallakurichi & District.

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and
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