



W.P.(MD) No.127 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.127 of 2024
and W.M.P.(MD)No.156 of 2024

Kaniyammal

... Petitioner

Vs.

- 1.The District Collector,
Virudhunagar District,
Virudhunagar
- 2.The Special Tahsildar,
Adidraavidar and Tribal Welfare Department,
Virudhunagar,
Virudhunagar District.
- 3.The President,
Viswanatham 1st Grade Village Panchayat,
Sivakasi Panchayat Union,
Virudhunagar District.



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4.The Inspector of Police,
Sivakasi East Police Station,
Virudhunagar District.

5.T.Muthumari

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the 3rd respondent in his proceedings No.NIL dated 16.12.2023 and quash the same as illegal, without jurisdiction and violation of principles of law and further direct the 2nd respondent to consider and dispose the representation dated 20.12.2023 which was submitted to issue free house site patta, within the stipulated time.

For Petitioners : Mr.M.Jothi Basu

For Respondents : Mr.S.P.Maharajan,
Spl. Govt. Pleader for R1 & R2
Mr.R.Meenakshi Sundaram for R4
Mr.N.Satheesh Kumar,
Addl. Govt. Pleader for R3

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

This Writ Petition has been filed seeking for issuance of a Writ Certiorarified Mandamus, to call for the records of the 3rd respondent in his



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proceedings No.NIL dated 16.12.2023 and quash the same as illegal, without jurisdiction and violation of principles of law and further direct the 2nd respondent to consider and dispose the representation dated 20.12.2023 which was submitted to issue free house site patta, within the stipulated time.

2. Heard the learned counsel for the petitioner, Mr.S.P.Maharajan, learned Special Government Pleader, who accepts notice for respondents 1 and 2, Mr.N.Satheesh Kumar, learned Additional Government Pleader, who accepts notice for R3 and Mr.R.Meenakshi Sundaram, learned Additional Public Prosecutor, who accepts notice for R4. Considering the nature of the order proposed to be passed in this Writ Petition, notice to the fifth respondent is dispensed with.

3. By consent, this Writ Petition is taken up for final disposal at the admission stage itself.

4. It is the case of the petitioner that she is a widow, landless poor and she belongs to Scheduled Caste Community. In the year 2002, the respondents has



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The property in plot No.82 was allotted to one Muniammal, but she did not occupy the said land and therefore, the petitioner has been in possession of the property for the past 15 years. The panchayat has also assessed the property tax in the name of the petitioner. The petitioner has sent a representation on 20.12.2023 to the first respondent, requesting to issue free house site patta. However, the same was not considered till date. While that being so, the third respondent has passed the impugned order evicting the petitioner in the property in question. Hence, the petitioner has filed this Writ Petition.

5. The learned counsel appearing for the petitioner submitted that the impugned order passed by the third respondent is erroneous and violates the principles of natural justice. Further, the learned counsel for the petitioner submitted that no opportunity has been granted to the petitioner to place the relevant materials to substantiate the claim made by the petitioner. Hence, the impugned order is liable to be set aside.



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6. The learned Additional Government Pleader appearing for the third respondent submitted that the petitioner has placed a bogus document before the Panchayat and based on the same, property tax has been assessed. Thereafter, on verification, it was found that the said document is not a genuine one and therefore, the third respondent has passed the impugned order evicting the petitioner in the subject property.

7. We have carefully considered the rival submissions and perused the materials available on record.

8. On a perusal of the records, it is seen that without issuing notice to the petitioner, the impugned order has been passed and no opportunity has been granted to the petitioner to file her objection or reply to the same. Therefore, we are of the view that the third respondent has passed the impugned order without following the due process of law. Hence, the impugned order is liable to be set aside.



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9. Accordingly, the Writ Petition is allowed and the impugned order dated 16.12.2023 passed by third respondent is set aside. The second respondent is directed to consider the representation of the petitioner dated 20.12.2023 and pass orders in accordance with law, if she is otherwise eligible to get the free house site patta, within a period of eight weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] [R.V., J.]

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Neutral Citation: Yes / No
Index : Yes / No

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