



*W.P.(MD) No.3157 of 2022*

**WEB COPY** BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

**DATED: 03.09.2024**

**CORAM**

**THE HONOURABLE Ms.JUSTICE P.T.ASHA**

**W.P.(MD) No.3157 of 2022  
and  
W.M.P.(MD) Nos.2746 and 2747 of 2022**

**M.Karpagam**

**... Petitioner**

**/vs./**

- 1.The Commissioner of Land Administration,  
Ezhilagam,  
Chepauk, Chennai 600 005.
- 2.The District Collector,  
Tenkasi District,  
Tenkasi.
- 3.The Superintendent of Police,  
Tenkasi District,  
Tenkasi.
- 4.The District Revenue Officer,  
Tenkasi Revenue District,  
Tenkasi.
- 5.The Revenue Divisional Officer,  
Sankarankovil Revenue Division,



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Sankarankovil,  
Tenkasi District.

6.The Tahsildar,  
Sivagiri Taluk,  
Sivagiri,  
Tenkasi District.

7.The President,  
Duraismiyapuram Village Panchayat,  
Duraismiyapuram,  
Rayagiri Post,  
Sivagiri Taluk,  
Tenkasi District.

8.The Inspector of Police,  
Sivagiri Police Station,  
Sivagiri,  
Tenkasi District.

9.M.Krishnavel

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records on the file of the 5th respondent in connection with the impugned order of cancellation of free house site patta passed vide his proceedings in Na.Ka.No.A1/3042/2020 dated 11.07.2021 and quash the same as illegal and arbitrary and consequently direct him to restore the free house site patta issued by the 6th respondent vide his proceedings in Na.Ka.No.A1/5259/2019 dated 31.01.2020 and thereby direct the respondents 1 to 4 to take appropriate disciplinary action against their subordinates i.e. respondents 5 to 7 and pay compensation for the illegal



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demolition of the petitioner house property within the time limit that may be stipulated by this Court.

|                       |                                                  |
|-----------------------|--------------------------------------------------|
| For Petitioner        | : Mr.G.Thalaimutharasu                           |
| For R1, R2 & R4 to R6 | : Mr.P.Thambidurai<br>Government Advocate        |
| For R3 & R8           | : Mr.M.Vaikam Karunanidhi<br>Government Advocate |
| For R7                | : Mr.M.Ramesh                                    |
| For R9                | : Mr.R.Karunanidhi                               |

### **ORDER**

Challenging the order of the fifth respondent cancelling the free house site patta issued to the petitioner vide impugned proceedings dated 11.07.2021, the petitioner is before this Court seeking to quash the order and consequently directing the respondents 1 to 4 to take appropriate disciplinary action against the respondents 5 to 7 and pay compensation for the illegal demolition of the petitioner's house property.

2. The petitioner in the affidavit filed in support of this writ petition would submit that she and her husband hail from a very poor agricultural family belonging to the Scheduled Caste community. She would submit that they did not own any house of their own and on 19.09.2019, she had submitted an application



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to the sixth respondent requesting him to allot a free house site in her favour.

After conducting an enquiry, the sixth respondent had assigned a free house site, measuring an extent of 00119 sq.mt., ie., 2.94 cents in S.No.327/26 at Duraisamiyapuram, a hamlet of Thenmalai Bit-2 Village, Sivagiri Taluk, Tenkasi District, vide proceedings dated 31.01.2020.

3. The petitioner had decided to construct a small house for their residence and when they had started the construction, she was threatened by one G.Satheskumar and A.Jeyaraj not to construct the house in the land in question. Therefore, the petitioner had lodged a complaint before the 8th respondent. The 8th respondent did not take any steps in this regard and therefore, the petitioner had filed W.P.(MD) No.6850 of 2020 for police protection to construct the house. When the writ petition had come up for hearing, the Court was informed that a criminal case had been registered and that the police were ready to provide adequate protection to the petitioner, if necessary. Thereafter, the petitioner had constructed a house with hollow block and steel shed and was living there with her 3 children.



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4. The said Jeyaraj had filed W.P.(MD) No.7370 of 2020 stating that the petitioner had encroached a children's park and water tank in S.No.327/26 and sought for a direction to the respondents 2 and 5 to remove the same. When the matter came up for hearing on 18.02.2021, the Division Bench of this Court was pleased to dismiss the writ petition holding that there is no question of the petitioner having encroached the properties, since she had been given an assignment patta.

5. However, by an order dated 16.03.2001, the fifth respondent without giving the petitioner an opportunity of hearing cancelled the patta on the ground that the petitioner's husband owned Nanja and Punja lands in S.Nos.372/3, 372/4, 372/2, 372/1, 338/2B, 297/9 and 295/10 and a Tractor bearing Reg.No.TN67 T 5515 and therefore held that the petitioner was not entitled to free house site patta.

6. The petitioner challenged the said order in W.P.(MD) No.8493 of 2021 and the same was allowed on 26.04.2021 with a specific direction to the fifth respondent to conduct a fresh enquiry by issuing notice to the petitioner in



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accordance with law. Pursuant to this order, the fifth respondent conducted an enquiry on 16.06.2021, where the petitioner had admitted that her husband owned 83 cents of agricultural lands and a Tractor and out of the income derived from the said property, the family was sustaining themselves. The source of income to the said property is below the annual income fixed by the first respondent for obtaining free house site patta. However, the fifth respondent had once again cancelled the assignment vide proceedings dated 11.07.2021.

7. The cancellation order originally passed on 16.03.2021 and the cancellation order dated 11.07.2021 were identical and there was no application of mind. Thereafter, without giving the petitioner an opportunity to file further appeal, her house was demolished on 30.12.2021 and the petitioner was evicted without following due process of law. Therefore, the petitioner challenging this proceedings is before this Court.

8. A status report dated 10.06.2023 has been filed by the fourth respondent, wherein it has been held that the free house site patta had been obtained by the petitioner by suppressing the fact that her husband owned Nanja and Punja lands



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in S.Nos.372/3, 372/4, 372/2, 372/1, 338/2B, 297/9 and 295/10 and a Tractor bearing Reg.No.TN67 T 5515. The sixth respondent had issued the free house site patta without conducting proper field enquiry inspection. Thereafter, on coming to know about the same and on verification of the records, the house site patta was cancelled on 16.03.2021. This was challenged by the petitioner before this Court and by quashing the impugned order, the second respondent was directed to issue fresh notice to the petitioner, get her explanation and pass orders. In compliance of the said order, the petitioner was directed to appear for enquiry on 02.07.2021, vide the fifth respondent notice dated 16.06.2021. She appeared for enquiry and gave written statement admitting that her husband owned Nanja and Punja lands and a Tractor.

9. That apart, she had admitted that she was residing at a house at Soorian Street for an 'Othi' for an amount of Rs.1,00,000/- that she had given to the owner of the property. Therefore, the petitioner would not fall under the category of poor landless person. It was decided to cancel the patta and resume the lands to the Government vide proceedings of the fifth respondent dated 12.07.2021 and this order has also been communicated to the petitioner. The petitioner's husband



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acknowledged the receipt of the said order. Consequent to this order, a notice was issued by the 7th respondent directing the petitioner to remove the tin roofed shed in S.No.327/26. The notice, which was sent through RPAD, had been returned with an endorsement 'refused'. Copy of the notice was also affixed and therefore, the petitioner has been put on notice and the allegations made by the petitioner are absolutely false.

10. It is also a fact that the property, which has been assigned to the petitioner, had a public tap supplying drinking water and was also a part of the children's playground. After resuming this land, the same has been restored to its original state. Therefore, he would submit that the writ petition deserves to be dismissed.

11. The 7th respondent had also filed a counter more or less on the similar line.

12. Heard the learned counsel on either side.



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13. The petitioner has obtained free house site patta suppressing the fact that her family owns Nanja and Punja lands and a Tractor and that they are deriving income from the same, with which the family is run. Therefore, the petitioner cannot be called a landless poor. Further, the land, which has been assigned to the petitioner, was being used for public purpose, where there was a public drinking water tap and the property had been allotted for children's playground. Considering the fact that the petitioner has obtained free house site patta by suppressing the facts, she is not entitled to the indulgence of this Court and therefore, her grievance that she had not been put on notice has also been denied by the status report filed by the fourth respondent.

14. In these circumstances, I see no reason to interfere with the impugned order. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Speaking : Yes / No  
NCC : Yes / No  
Internet : Yes / No  
Index : Yes / No

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Tenkasi District,  
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**P.T.ASHA, J.**

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