



W.P(MD)No.7526 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.06.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.7526 of 2024

and

W.M.P.(MD)No.6900 of 2024

Muthu Babitha

... Petitioner

Vs.

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2.The Special Tahsildar (Adi-Dravidar Welfare),
Tiruchendur Taluk Office,
Tiruchendur,
Thoothukudi District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent in connection with the impugned order passed by the 2nd vide his proceedings in Na.Ka.Aana2/121/1997 dated 18.08.2023 and to quash the same as illegal and arbitrary and consequently to direct the respondents to re issue Free House Assignment Patta to the petitioner in respect of the land in Plot No.46, to an extend of 0.01.20 Hectares, situating in 107/6A4 and 107/6A5 in Keela Tiruchendur Village, Thiruchendur Taluk, Thoothukudi District and to had over the above property to the petitioner within the time limit that may be stipulated by this Court.



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For Petitioners : Mr.G.Thalaimuthurasu

For Respondents : Mr.P.Thambidurai
Government Advocate

ORDER

One K.Kannagi filed W.P.(MD)No.5105 of 2024. The writ petition was allowed by me on 03.04.2024 in the following terms:-

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

2. The writ petitioner was granted assignment patta on 19.02.2019 by the second respondent. However, the assigned lands were not earmarked and formally handed over to the beneficiaries. The petitioner has already been representing to the authorities for physically handing over the assigned plot. At this stage, the impugned memorandum dated 12.11.2019 came to be issued by the second respondent cancelling the assigned patta. Challenging the same, the writ petition came to be filed.

3. After hearing the learned counsel appearing for the petitioner, the following order was passed on 09.08.2023:-

“Heard the learned counsel on either side.

2. The respondents have cited certain reasons in support of the cancellation order in the counter affidavit. One such reason is that some of the assignees are having own houses. But the details have not been given.

3. The respondents are directed to furnish specific particulars. The learned counsel for the petitioners informs the Court that some persons have started construction in the assigned area. Since this Court is seized of the matter, the respondents are directed to ensure that no further constructions takes place in the assigned land. The respondents shall produce all the relevant files.

4. Call this case on 14.08.2023.”



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It was also argued that the impugned memorandum is based on the proceedings dated 25.10.2019 issued by the District Collector, Tuticorin. I wanted to know if the petitioner was put on notice before passing the impugned order. It is beyond dispute that the assignee was not put on notice before the assignment was cancelled.

4. The learned Additional Government Pleader states that the Revenue Divisional Officer, Tiruchendur had submitted a report to the District Collector, Tuticorin that ineligible persons had been issued with assignment pattas. Spot inspection was earlier conducted on 16.09.2019 and it was concluded that the petitioner is not eligible and that is why, the District Collector, Tuticorin issued the aforesaid proceedings. That is the stand of the respondents. The submission of the learned Additional Government Pleader does not still meet the question raised by this Court. The fact remains that the petitioner had not been issued with any notice of cancellation prior to passing of the impugned order. On this sole ground, the order impugned in the writ petition is set aside. The learned Additional Government Pleader submitted that the matter may be remitted to the file of the second respondent to pass an order afresh after holding an enquiry.

5. I am not inclined to make such remand. If any credible material has been placed before me to indicate that the writ petitioner was not eligible to get assignment, then, I would have definitely remanded the matter for fresh consideration. No material has been placed before this Court. Only some bald statements have been made by the officials. Therefore, the writ petition is allowed. It is of-course open to the respondents to initiate action for cancellation based on credible materials. The authorities cannot take their own sweet time. The authorities are directed to earmark the assigned plots and hand over the physical possession to the writ petitioner within a period of sixteen weeks from the date of receipt of a copy of this order. It is of-course open to the authorities to take action for cancellation in the mean while. No costs.”



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2. The impugned order is set aside for the reasons mentioned above. The Writ Petition is allowed on the same lines. No costs. Consequently, connected miscellaneous petition is closed.

03.06.2024

Index : Yes / No
Internet : Yes/ No
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To

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2.The Special Tahsildar (Adi-Dravidar Welfare),
Tiruchendur Taluk Office,
Tiruchendur,
Thoothukudi District.



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G.R.SWAMINATHAN, J.

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