



W.A(MD)No.901 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.06.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

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A.Iruvakkal

... Appellant/Petitioner

VS.

- 1.The Government of Tamil Nadu,
Represented by its Principal Secretary
(Revenue and Disaster Management Department),
Secretariat,
Chennai.
 - 2.The Additional Chief Secretary to Government
(Revenue And Disaster Management Department) and
(Land Survey and Land Tax Department),
Chepauk,
Chennai.
 - 3.The District Collector,
Virudhunagar District.
 - 4.The Revenue Divisional Officer,
Aruppukottai,
Virudhunagar District.
 - 5.The Tahsildar (Revenue),
Aruppukottai,
Virudhunagar District.
- ... Respondents/Respondents



W.A(MD)No.901 of 2024

PRAYER : Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 20.04.2023 made in W.P(MD)No.9129 of 2023.

For Appellant : Mr.C.Murugavel

For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader

JUDGMENT

[Judgment of the Court was made by R.SURESH KUMAR, J.)

This Writ Appeal has been directed against the order passed by the Writ Court, dated 20.04.2023 made in W.P(MD)No.9129 of 2023.

2.That in respect of the landed property at Ward A, Block 23, T.S.No.27, Sub-Division No.27/2, an extent of 0.0032.5 square meters is a housing plot, that has been assigned to the appellant/writ petitioner by order of assignment, dated 15.06.2007 by the Tahsildar of Aruppukottai/the fifth respondent herein. Since then the appellant/writ petitioner has been in possession and enjoyment of the property and she is claiming that she has constructed a dwelling house and had been residing there.



3.However, in the Town Survey Register, the said land has been shown as 'Sarkar poramboke Neerthadangal' ie., water body. Therefore, in order to change the nomenclature, the appellant/writ petitioner has approached the revenue authority which has been negated by the order of the Revenue Divisional Officer, ie., the fourth respondent through his order dated 27.07.2022, where, he has stated the following:

பார்வையில் காணும் கடிதத்தில், விருதுநகர் மாவட்டம், அருப்புக்கோட்டை வட்டம் மற்றும் நகரம், வார்டு-ஏ, பிளாக்-23, நகரளவை எண்.27ல், பரப்பு 0.0266.0 சதுர மீட்டர் நிலமானது, கணினியில் "சர்க்கார் புறம்போக்கு ஒடை" என தாக்கலாகியுள்ளதாகவும், அதனை ரயத்து புன்செய் என பட்டாதாரர் பெயரில் திருத்தம் செய்து தரக் கோரி அருப்புக்கோட்டை வட்டாட்சியரிடமிருந்து அறிக்கை வரப்பெற்றுள்ளது.

மேற்படி அறிக்கை மற்றும் சமர்ப்பிக்கப்பட்டுள்ள நகரளவை ஆவணங்கள் மற்றும் இதர ஆவணங்களைப் பரிசீலனை செய்ததில், ஐடி நகரளவை எண்.27-ல், பரப்பு 0.0266.0 சதுர மீட்டர் நிலமானது, நகரளவைப் பதிவேட்டில் உள்ளவாறு கணினியிலும், "சர்க்கார் புறம்போக்கு நீர்த்தடங்கல் என தாக்கலாகி வருகிறது.

மேலும், அரசு விதிமுறைகளின்படி, நீர்நிலைப் புறம்போக்குகளில் வீடு கட்டி குடியிருப்பவர்களுக்கு வரன்முறைப்படுத்தி பட்டா வழங்க மார்க்கயில்லை.

எனவே, ஐடி நகரளவை எண்.27 குறித்த விபரங்களை கணினி நகரளவைப் பதிவேட்டில் பட்டாதாரர் பெயரில் திருத்தம் செய்ய மார்க்கயில்லை என்ற விபரம் இதன் மூலம் மனுதாரருக்கு தெரிவிக்கப்படுகிறது.



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4.Challenging the same, she moved the Writ Petition and the learned Writ Court rejected the said Writ Petition through the impugned order stating that it is common knowledge that the Courts have been quite vigilant in ensuring that the water bodies are not converted into residential plots or put to commercial use or to any use at all and hence for the said reason, the learned Judge rejected the said Writ Petition, as against which the appeal has been directed.

5.Heard C.Murugavel, learned counsel appearing for the appellant and Mr.N.Satheesh Kumar, learned Additional Government Pleader appearing for the respondents.

6.Insofar as the landless poor are concerned, the Government as a welfare measure used to give house pattas or assignment orders for the eligible people and in this regard, insofar as the appellant/writ petitioner and 16 other people are concerned, the Committee headed by the District Collector, having inspected the property in question, had come to a conclusion that free pattas ie., assignment orders can be given to these



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people including the appellant/writ petitioner and that proceedings had been issued by the Tahsildar on 14.12.2000. Based on such a communication, the individual assignment order in No.B51919/2007 was issued by the fifth respondent/the Tahsildar on 15.06.2007 in favour of the appellant/writ petitioner, wherein Sub-Division No.27/2 an extent of 0.0032.5 square meter has been assigned to the appellant/writ petitioner, who after receipt of the said assignment order has taken possession of the land and she has put up construction, where she is residing.

7.However, the erstwhile nomenclature that has been made in the Town Survey Register as 'Sarkar poramboke Neerthadangal' is still continuing, therefore, in order to change the same, the appellant/writ petitioner had approached the revenue authorities which has negated by the said order, dated 27.07.2022.

8.In this context, even though the learned Special Government Pleader appearing for the respondents has submitted that the Commissioner of the Municipality concerned is the custodian of the Town Survey record, therefore, if at all any change is to be made with regard to the nomenclature of the land in question is concerned, the appellant/writ



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petitioner should approach the Commissioner of the Municipality concerned and if he approaches, only the Commissioner of such Municipality has to take a decision and to pass necessary orders.

9.However, since the Revenue Divisional Officer of the revenue Division concerned since has passed an order on 27.07.2022 expressing his inability to change the nomenclature, we do not think that the Municipal Commissioner will act upon despite the stand taken by the Revenue Divisional Officer, therefore, certainly the order passed by the Revenue Divisional Officer, dated 27.07.2022, would stand in the way even to take a decision independently by the Commissioner of Municipality in whose custody, according to the learned Special Government Pleader, Town Survey Register is being maintained.

10.In this context, it is to be noted that the Committee headed by the District Collector having verified the nature of the property had come to the conclusion that free assignment patta can be given to the landless poor and the appellant/writ petitioner is one among the beneficiary, apart from her 16 other people also have been given such assignment order. When that being so, at this length of time, one of the officer of the revenue department



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cannot take such a stand as taken through the order, dated 27.07.2022 of the Revenue Divisional Officer to express his inability to change the nomenclature of the land concerned because of which even though assignment had been given to the appellant/writ petitioner and similarly placed persons, they may suffer at the hands of various authorities whenever they approach for any welfare measure pursuant to the said property where they already put up dwelling house.

11. Therefore, we feel that the view taken by the learned Judge, as expressed in paragraph 4 of the impugned order, may be erroneous because of the peculiar facts and circumstances of the case, where, after having verified the nature of the land in question by the Committee headed by the District Collector, they had come to the conclusion that the Government can assign the lands to the landless poor which is being the policy of the Government. Therefore, the appellant/writ petitioner is entitled to seek for such a change of nomenclature, where if at all it has to be considered and decided by the Commissioner of Municipality concerned, it is open to the appellant/writ petitioner to make a fresh application along with the copy of this order to the Commissioner of Municipality, where the land in question is located and if any such request is made, the same shall be



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considered in the light of the aforestated observation and the view expressed by this Court and accordingly, a decision shall be taken by him.

12.With these observation and direction, the order passed by the learned Judge is hereby set aside and accordingly, this Writ Appeal to the extent indicated above is ordered. However, there shall be no order as to costs.

[R.S.K.,J.] [G.A.M.,J.]
10.06.2024

NCC : Yes / No
Index : Yes / No
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To

- 1.The its Principal Secretary
(Revenue and Disaster Management Department),
Represented by the Government of Tamil Nadu,
Secretariat,
Chennai.
- 2.The Additional Chief Secretary to Government
(Revenue And Disaster Management Department) and
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R.SURESH KUMAR,J.
and
G.ARUL MURUGAN,J.

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ORDER MADE IN
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DATED : 10.06.2024