



W.P.(MD).No.31274 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 02.01.2024

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.(MD).No.31274 of 2023

Tyaki Krushanachamy

... Petitioner

Vs.

- 1.The District Collector,
Office of the District Collector,
Dindigul,
Dindigul District.
- 2.The Revenue Divisional Officer,
Office of the Revenue Divisional Office,
Palani,
Dindigul District.
- 3.The Tahsildar,
Office of the Tashildar,
Vedasandur Taluk,
Dindigul District.
- 4.The Assistant Divisional Engineer,
Office of the Highways Department,
Construction and Maintenance,
Vedasandur,
Dindigul District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Mandamus, to direct the Respondent No.1 to grant patta in favour of the petitioner for his land in old Survey No.694A/2AA1A1 and new Survey No.1877/1 situated at Vendasandur Village, Vendasandur Taluk, Dindigul District on the basis of the Respondent No.1 Communication letter in ந.க.எண்.623028/2023/196 dated 19.06.2023.

For Petitioner : Mr.R.Rajaselvan

For Respondents : Mr.D.Gandhiraj
Special Government Pleader

ORDER

The petitioner seeks for a Writ of Mandamus to direct the first respondent to grant patta in his favour in Old Survey No.694A/2AA1A1 and New Survey No.1877/1 situated at Vendasandur Village, Vendasandur Taluk, Dindigul District on the basis of the communication of the first respondent dated 19.06.2023.

2. The petitioner states that he is a freedom fighter aged about 100 years and residing in a thatched house in Old Survey No.694A/2AA1A1, New Survey No.1877/1 situated at Vendasandur Village,



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Vedasandur Taluk, Dindigul District and in a land, which has been claimed by the Highways Department. According to the petitioner, from the year 2016, he has been receiving freedom fighter's pension. The petitioner submits that he has sent several representations to the authorities for grant of patta. The first respondent, by communication dated 19.06.2023, directed the third respondent for appropriate consideration. The first respondent, vide communications dated 07.11.2017 and 10.01.2019 in O.Mu.No. 30729/2017/D3 and Na.Ka.No.692/2019/D3, directed the third respondent to consider the petitioner's representation. However, till date, the said representation was not considered.

3. According to the petitioner, on 27.04.2018, the third respondent passed an order in Na.Ka.No.2594/2018/Aa4 to grant patta in favour of the petitioner for another property in Survey Nos.497/4P and 497/20. The petitioner has returned the patta granted to him and made a representation requesting to change the patta in Old Survey No.694A/2AA1A1 and New Survey No.1877/1 situated in Vedasandur Taluk, Dindigul District and the authorities are to be directed to issue patta in his favour. Further, the third



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respondent passed an order on 23.07.2023 refusing the petitioner's claim by considering the proceedings of the Village Administrative Officer, Assistant Divisional Engineer of Highways Department and the Executive Officer of Town Panchayat, without considering the petitioner's representation. Hence, the petitioner seeks indulgence of this Court to direct the respondents to consider the representation of the petitioner for grant of patta.

4. The learned Special Government Pleader appearing for the respondents would submit that the Highways Department has considered the petitioner's representation and the Tahsildar, vide proceedings in Na.Ka.No. 1548/2023/A3 dated 11.05.2023, has clearly considered the petitioner's representation in detail and found that Survey No.1880 measuring 0.28.00 Ares, Survey No.1878 measuring 0.12.50 Ares, Survey No.1921 measuring 0.11.0 Ares, Survey No.1877/1 measuring 0.24.68 Ares, Survey No.699 measuring 0.43.00 Ares, Survey No.1882 measuring 0.10.00 Ares and Survey No.1922 measuring 0.01.25 Ares in Vendasandur Taluk all stand in the name of the State Highways Department. Therefore, the petitioner



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cannot seek for issuance of patta from them and it is for the Highways Department to take action to remove all the encroachments.

5. The learned Special Government Pleader would further submit that the fourth respondent/Highways Department has clearly stated that regarding Survey No.1877/1, the petitioner has encroached upon the said area in the right side of 0.6 Km of Vendasandur – Kovilur road and residing in a house constructed by asbestos sheet within the road margin. The same cannot be accepted and as per Sub-section 28(2)(II) of Section 5 of the Highways Act, 2001, the said encroachment is objectionable and patta cannot be granted for the said land. The said area is required for the future expansion of roads and there cannot be any consideration for issuance of patta. Further, the Tahsildar has granted a free house site in Survey No. 497/20, Patta No.4140 measuring 0.01.20 Ares to the petitioner's daughter and the same is accepted by him in paragraph no.4 of the affidavit, wherein, 5 cents of land was granted on 16.08.2016 itself.



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6. The third respondent has granted a free house site patta in Survey No.497/20 at Thirumanikanur, Vedasandur Village, Vedasandur Taluk, Dindigul District and now, the petitioner cannot seek for another patta in the same capacity as a freedom fighter. The subject land in Survey No.1877/1 belongs to the Highways Department and no patta can be granted to anybody for constructing a house. Hence, the prayer of the petitioner cannot be considered by this Court and the same has to be rejected. Accordingly, the Writ Petition stands dismissed. There shall be no order as to costs.

02.01.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm



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V.BHAVANI SUBBAROYAN,J.

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