

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2016

CORAM

THE HON'BLE MR. JUSTICE M.S. RAMESH

W.P.No.690 of 2011

and

M.P.No. 1 of 2011

V.Govindarajan

...Petitioner

Vs.

1. The District Collector
Chennai District,
Singaravellar Malligai, Chennai 600 001.

2. The Tahsildar
Mambalam Guindy Taluk
K.K.Nagar, Chennai 600 078.

3. T.Thirunavukkarasu

4. R.Sridhar

...Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the first respondent to issue a direction to the second respondent directing him to declare and to change the patta in favour of the petitioner's name in respect of land comprised in survey No.336/1A2 to an extent of 3040 square feet in No.137 Vellachery Village, Guindy Mambalam Taluk, Chennai District and issue the copy of the patta to the petitioner at his cost.

For Petitioner : Mr.A.Ramu

For Respondents : Mr.V.S.Ramesh,
Addl. Govt Pleader for R1 & R2
Mr.V.R.Ravichandran for R3
No appearance for R4

O R D E R

The prayer in the writ petition is for Writ of Mandamus directing the first respondent to issue a direction to the second respondent directing him to declare and to change the patta in favour of the petitioner's name in respect of land comprised in survey no.336/1A2 to an extent of 3040 square feet in No.137 Vellachery Village, Guindy Mambalam Taluk, Chennai District and issue the copy of the patta to the petitioner at his cost.

2. The petitioner is the owner of the property comprised in survey No.336/1A2 at Vellachery Village, Mambalam Guindy Taluk, Chennai for which he had obtained patta no.2129. By an order made by the first respondent dated 18.06.2002 the petitioner's patta was canceled and consequently the subdivision made in his patta was also canceled. As against the said order, the petitioner had filed a revision before the Commissioner of Land Administration, Chepauk which was also returned with an endorsement stating that the Revisional Authority's power has been withdrawn through G.O.Ms.No.409 Revenue (SS1-2) dated 02.07.2008.

3. Under these circumstances the petitioner had approached this Court. In this regard the petitioner has also made a representation to the first respondent on 25.10.2010 for which no orders has been passed till date. On a careful reading of the order of the cancellation of patta dated 18.06.2002 it is seen that the first respondent while canceling the petitioner's patta had not served any prior notice for the proceedings on the petitioner. As a matter of fact the first respondent had observed in his order that he was not aware of the address of the petitioner and effected service of notice through affixture.

4. Nevertheless the learned counsel for the petitioner would submit that the petitioner is residing in the same address and that no affixture was made. The only grievance of the petitioner is that he was not aware of the proceedings in which his patta was cancelled and therefore would submit that the cancellation is in violation of the principles of natural justice.

5. I do not want to go into the merits of the claim made by the petitioner or the private respondent with regard to the title. Nevertheless it would be appropriate to direct the first respondent to afford due opportunity to the petitioner before passing an order.

6. Under such circumstances, though the petitioner sought for a mandamus to the second respondent to declare and change the patta in his favour for the subject land, the said prayer cannot be granted since the cancellation order has already been passed and has not been challenged. Nevertheless it would be appropriate that this Court moulds the relief made by the petitioner into one of writ of certiorar and thereby quash the order no. 0.5/21717/99 dated 18.06.2002 of the first respondent. Consequently the first respondent is directed to conduct fresh proceedings by giving an opportunity to the petitioner as well as to the third and fourth respondents and to all other parties connected with the subject land, by following due process of law as contemplated under Section 13 of the Patta Passbook Act, 1983. The said exercise shall be completed within a period of three months from the date of receipt of a copy of the order.

6. Accordingly this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

dqp

To

1. The District Collector
Chennai District,
Singaravellar Malligai, Chennai 600 001.
2. The Tahsildar
Mambalam Guindy Taluk,
K.K.Nagar, Chennai 600 078.

+1cc to Mr.A.Ramu, Advocate, S.R.No. 69440

+1cc to the Government Pleader, S.R.No. 70094

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VD (CO) PSI (29/12/2016)