

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2017

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P.No.5606 of 2013

R.Vijay Anand

... Petitioner

vs.

1. The Commissioner,
Corporation of Chennai,
Ripon Building,
Chennai 600 003.

2. The Zonal Officer,
Zone III,
Corporation of Chennai,
Madhavaram,
Chennai - 600 060.

3. The Assistant Executive Engineer,
Zone - III,
Corporation of Chennai,
Madhavaram,
Chennai 600 060.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus, directing the respondents to give effect to the order dated 08.04.2010 in reference No.892/2010/A1 passed by the Revenue Divisional Officer, Ponneri, Tiruvallur District and thereby forbearing the respondents from forming any road over the said 202 sq. Mtrs. of land in S.No.1186/2A2A Madhavaram Village.

For Petitioner : Mr.S.R.Raghunathan

For Respondents : Mr.T.C.Gopalakrishnan

O R D E R

The petitioner has come up with this Writ Petition seeking a direction to the respondents to give effect to the order dated 08.04.2010 passed by the Revenue Divisional Officer, Ponneri, Tiruvallur District vide reference No.892/2010/A1, thereby forbearing the respondents from forming any road over the said 202 sq. Mtrs. of land in S.No.1186/2A2A Madhavaram Village.

2. According to the petitioner, his father settled an extent of 3921 sq. ft. out of the larger extent of 58.5 cents of land vide Settlement Deed, dated 09.12.2011, on the file of the SRO, Madhavaram, in his favour. Subsequent thereto, when the petitioner approached the revenue authorities for issuance of Patta in his father's name, he came to know that a portion of the property settled in his favour, measuring an extent of 202 sq. Mtrs. in S.No.1186/2A/2A, Madhavaram Village was erroneously shown as road. Thereafter, proceedings were initiated by the petitioner for necessary correction along with all supporting documents. The Revenue Divisional Officer, vide his order dated 08.04.2010 in Na.Ka.No.892/2010/A1, accepting that a mistake had occurred, directed the authorities to rectify the "A" Register in respect of the said 202 sq. mtrs of land in S.No.1186/2A/2A to include the petitioner's father's name as a lawful owner of the property and the Patta has been issued in the petitioner's father's name.

3. While so, since the 3rd respondent attempted to form a road over their property, the petitioner made an application to the Tahsildar, Madhavaram Village, on 19.02.2013 and the property was surveyed by the Surveyor on 28.02.2013 and boundaries were fixed. Hence, having no other alternative, the petitioner is before this Court with the present Writ Petition.

4. Heard the learned counsel on either side and perused the material documents available on record.

5. When the matter is taken up for hearing, learned counsel appearing for the respondent/Corporation, produced the counter affidavit filed on behalf of Chennai Corporation and stated that there is no proposal to lay road in the private property of the petitioner. He further submitted that the Chennai Corporation has neither tried to lay road nor has any proposal to lay road in the petitioner's property. It is further stated by the learned counsel that the Revenue Divisional Officer, by a communication, dated 08.04.2010, has made it clear that the property in question belongs to the petitioner and it has not been disturbed by any order of this Court.

6. In view of the same, more particularly, in the light of the submissions made by the learned counsel appearing for the Chennai Corporation that the road shown in the Plan pertaining to Patta No.43, cannot be considered as a road at all, this Court is of the view that none has got right to claim to use it as a road and it is for the respondents to acquire the land, if so advised for the purpose of laying road. It is made clear that any construction that has been made in the adjacent place, claiming the said portion as road, and Plan, if any, has been obtained, the authorities are entitled to take appropriate action against the owners of the building and appropriate orders may be passed. If there is any misrepresentation that there was

a road, those places shall not be regularized. For misleading and obtaining the Plan, the Occupier will have to face demolition and if the authorities have had a part in sanctioning such Plan, they can be shown the doors, by dismissing them from service.

The Writ Petition is ordered accordingly. No costs. Consequently, connected M.P.No.1 of 2013 is closed.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

1. The Commissioner,
Corporation of Chennai,
Rippon Building, Chennai 600 003.
2. The Zonal Officer, Zone III,
Corporation of Chennai,
Madhavaram, Chennai - 600 060.
3. The Assistant Executive Engineer, Zone - III,
Corporation of Chennai,
Madhavaram, Chennai 600 060.

+1cc to Mr.S.R.Raghunathan vide S.R.No.91283

सत्यमेव जयते

Order in
W.P.No.5606 of 2013

kjl (CO)
MRR (03/02/2018)

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