

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2017

CORAM :

THE HONOURABLE MR. JUSTICE.S.VAIDYANATHAN

W.P.No.14587 of 2008

S.K.Haribabu
represented by his Power of Attorney,
C.S.Varadarajan

.. Petitioner

Vs

1. The Assistant Director of Survey,
Thiruvallur Collectorate,
Thiruvallur.

2. The Tahsildar,
Office of the Tahsildar,
Ambattur,
Chennai 600 053.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus, calling for the records relating to the letters dated 11.03.2004 and 18.03.2004 and the consequential Certificate bearing R.C.No.58/2003, dated 05.04.2004 issued by the 2nd respondent and quash the same and consequently direct the respondents to issue Patta in the name of the petitioner after correlating the Old Survey No.400/1B, 400, 400 Part of Plot No.236 with the New Survey No.401 to Plot No.236.

For Petitioner : Ms.K.Bhanumathi

For Respondents : Mr.S.Diwakar,
Special Government Pleader

O R D E R

The petitioner has come up with this Writ Petition seeking to quash the letters, dated 11.03.2004 and 18.03.2004 and the consequential Certificate bearing R.C.No.58/2003, dated 05.04.2004 issued by the 2nd respondent and for a consequential direction to the respondents to issue Patta in his name after correlating the Old Survey No.400/1B, 400, 400 Part of Plot No.236 with the New Survey No.401 to Plot No.236.

2. According to the petitioner, he purchased a land - vacant site bearing Plot No.236, Mogappiar Village, Saidapet Taluk, Chengai M.G.R. District, measuring about 2400 sq. ft. (5 1/2

cents) comprised in S.No.400 Part, Mogappair Village, Chennai, vide Sale Deed, dated 29.03.1993, registered as Document No.2089 of 1993, before the Sub-Registrar, Ambattur from one A.Syed Mohammed Gani, who was residing at No.69, Pidariyar Koil Street, Chennai-1. On 23.03.1992, the Deputy Tahsildar, Headquarters, Saidapet had also issued Patta No.1150 in the name of A.Syed Mohamed Gani, wherein, the Survey Number is mentioned as 400-1B. The Village Administrative Officer of Mogappair Village had certified on 27.03.1993 that Plot No.236 was comprised in Survey No.400 of Mogappair Village. In the Sale Deed dated 29.03.1993, the Survey Number of Plot No.236 was mentioned as S.No.400 part by the petitioner's vendor, Syed Mohammed Gani.

3. Immediately after purchasing the said Plot vide Sale Deed dated 29.03.1993, the petitioner applied for patta in respect of the aforesaid Plot No.236. On 09.06.1993, the Regional Deputy Tahsildar, Ambattur, Saidapet Taluk granted patta in the name of the petitioner, wherein, the Survey Number of the said Plot No.236 was mentioned as S.No.400-1B. Subsequently, in the Field Measurement Sketch and in the Chitta and Adangal too, the Survey Number pertaining to Plot No.236 was mentioned as 400/1B.

4. While so, the petitioner was shocked to receive a notice dated 16.05.2003 from the respondents, addressed to Syed Mohammed Gani, the vendor of the petitioner through the tenant of the petitioner, in and by which, the respondents have stated that Plot No.236 is in S.No.401 and not in 400/1B. The petitioner sent a suitable reply dated 17.11.2003 enclosing the relevant documents to show that the Survey number mentioned in the revenue records are correct. Thereafter, the 2nd respondent sent letters dated 11.03.2004 and 18.03.2004 stating that the land to an extent of 2400 sq. ft. in S.No.400, Mogappair Village, Ambattur Taluk, purchased by the petitioner is recorded as per Town Survey in Ward H, Block 75, Town Survey No.120, Old Survey No.401, Part. In the said letters, the 2nd respondent directed the petitioner to execute and register a Rectification Deed with regard to Survey Number. Pursuant thereto, the 2nd respondent also sent a Certificate bearing R.C.No.58/2003, dated 05.04.2004, wherein, the Special Officer (Special Tahsildar), Town Survey Final Settlement, Ambattur, Chennai, had certified that Plot No.236, Mogappair East is not in Survey No.400/Part 1B as seen in the Purchase Documents, viz. Patta, Chitta, Adangal, F.M.B. Extract and V.A.O's. Certificate as per the Town Survey Records. Hence, challenging the same, the petitioner is before this Court.

5. Respondents have filed counter and stated that in spite of receipt of the Certificate dated 05.04.2004 issued by the 2nd respondent, the petitioner has not chosen to furnish the

registered Rectification Deed, rectifying the Survey Number as 401/Part instead of 400/1B in the Sale Deed, by which he purchased Plot No.236, to enable the respondents issue Patta as sought by him.

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

7. It is not in dispute that the petitioner purchased a vacant plot of 2400 sq. ft. from one Syed Mohammed Gani in Plot No.236, which was registered as Document No.2089 of 1993, vide Sale Deed dated 29.03.1993 before the Sub-Registrar, Ambattur. The grievance of the petitioner is that in the Sale Deed, the Survey Number was mentioned as 400/part and when the petitioner applied for Patta and obtained the same, the Survey Number was mentioned as S.No.400/1B. Also, the Field Measurement Sketch and the Chitta and Adangal bear the Survey No.400/1B. But, it is the case of the respondents that the petitioner did not choose to furnish the registered Rectification Deed rectifying the Survey Number as 401/part instead of 400/1B in the Sale Deed and hence, according to them, the Writ Petition is not maintainable.

8. On a perusal of the records furnished by the respondents in the typed set of papers, it is clear that the old Survey Number pertaining to Plot No.236 is 400/1B. As there is no mistake on the part of the petitioner while purchasing the property, there is no hurdle on the part of the respondents in correcting the Survey Number. Hence, taking note of the corresponding entries made in the relevant documents viz. Field Measurement Sketch, Chitta and Adangal, the respondents are directed to correct the Survey Number as prayed for by the petitioner, without insisting upon execution of a registered Rectification Deed.

The Writ Petition is disposed of with the above direction. No costs. Consequently, connected M.P.No.1 of 2008 is closed.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

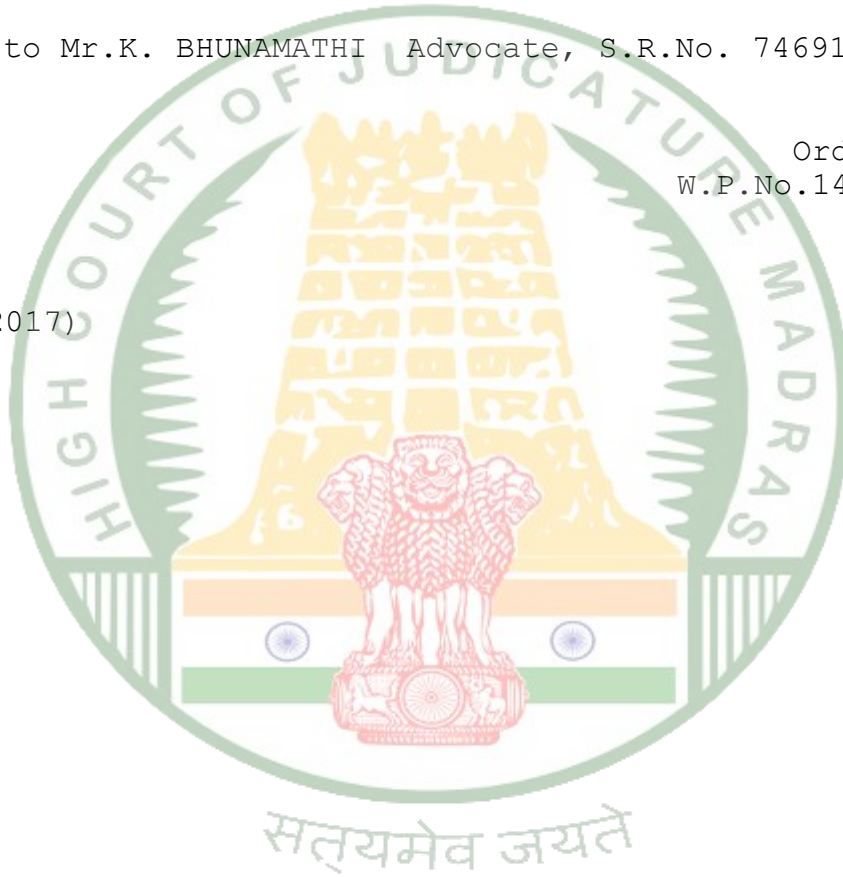
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2. The Tahsildar,
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Chennai 600 053.

+1cc to the Government Pleader, S.R.No. 75317

+1cc to Mr.K. BHUNAMATHI Advocate, S.R.No. 74691

Order in
W.P.No.14587 of 2008

TR(24/11/2017)



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