

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 06.03.2017

CORAM

THE HONOURABLE MR. HULUVADI G.RAMESH, ACTING CHIEF JUSTICE
AND
THE HONOURABLE MR. JUSTICE M.SUNDAR

W.P. NO. 38004 OF 2016
AND
W.M.P. NO. 32589 OF 2016

1. M.George (Decd.)
2. G.Gunaseeli
3. G.Daisy
4. G.Gnana Anand ... Petitioners
(P-2 to P-4 substituted as LRs of P-1
vide order dated 9.1.17 made in
WMP No.590/2017)

- Vs -

1. The District Collector
Chennai District
Singaravelar Maligai, Chennai 600 001.
2. The Tahsildar
Ayanavaram Taluk (then Purasawalkkam
- Perambur Taluk)
Ayanavaram, Chennai 600 023.
3. The Asst. Director of Survey
District Collectorate
Singaravelar Maligai
Chennai - 600 001.
4. The Commissioner
Corporation of Chennai
Ripon Buildings, Chennai - 3.
5. Shanmugam ... Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records relating to the order in Rc.Lr. No.J4/42400/2009 dated 11.8.2016 on the file of the 1st respondent District Collector and to quash the same as being illegal, arbitrary and mala fide and consequently direct the said 1st respondent Collector to implement the final Report in

Rc.No.A3/39340/2012 dated 06.12.2013 (as well as Corrigendum Report dated 04.01.2014 in Rc.No.A3/39340/2012) passed by the Tahsildar of Perambur-Purasawalkkam Taluk for the grant of Patta to the petitioner's land admeasuring an extent of 3524 sq.ft., comprised in T.S. No.6 in S. No.127/1 bearing Plot No.1, Krishnan Street, Tirupathy Nagar, Kolathur, Chennai - 99, located within the limits of Chennai Corporation Division No.65 (New Division No.62) and direct the 2nd respondent Tahsildar of Ayanavaram to issue patta in favour of him within a time frame.

For Petitioner : Ms. Chitra Sampath, SC, for
Mr. I John Arockiadas

For Respondents : Mr. M.K.Subramanian, GP for RR-1 to 3
Mr. V.C.Selvasekaran for R-4
No Appearance for R-5

ORDER

(DELIVERED BY THE HON'BLE ACTING CHIEF JUSTICE)

This writ petition has been filed by the petitioners for quashing the impugned order passed by the District Collector, viz., the 1st respondent and consequently direct the 2nd respondent, Tahsildar, Perambur-Purasawalkkam Taluk, to issue patta to the petitioner in tune with the final Report in Rc.No.A3/39340/2012 dated 06.12.2013 (as well as Corrigendum Report dated 04.01.2014 in Rc.No.A3/39340/2012).

2. Heard Ms.Chitra Sampath, learned counsel appearing for the petitioners and the respective learned counsel appearing for the respondents.

3. In respect of a portion of the property in T.S. No.6, which is said to be a plot belonging to the petitioner, an area of around 120 sq.ft., in one of the portion of the whole layout, has not been included in the said survey number pertaining to the petitioner, but has been shown under a different character in the town survey register, by way of encroachment on a street belonging to the Chennai Corporation. It is the grievance of the petitioner that despite the area being available for being given over to the petitioner, inspite of prolonged litigation and very many findings in favour of the petitioner, the 1st respondent has ultimately passed the impugned order without application of mind and adverting to the materials on record, which has warranted the petitioner to come before this Court by filing the present petition.

4. Having heard the learned counsel appearing for the parties and taking into account the facts and circumstances of the case and going through the material documents filed this

Court is of the considered view that an opportunity of hearing should be afforded to the petitioner before passing the order, which has not been done in this case, so as to enable the petitioner to prove his right and title to the property of an extent of 120 sq.ft., which is said to have been encroached as part of the road.

5. In such view of the matter, the order dated 11.8.2016, passed by the 1st respondent is accordingly set aside and the 1st respondent is directed to pass orders in accordance with law after affording an opportunity of hearing to the petitioner so as to enable the petitioner to establish his right and title over the property of an extent of 120 sq.ft., and also take into consideration the documents and other materials that are already on record.

6. Accordingly, this writ petition is disposed of with the aforesaid observation and direction. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

-s/d-
Assistant Registrar (CS-IX)

True Copy

Sub-Assistant Registrar

To

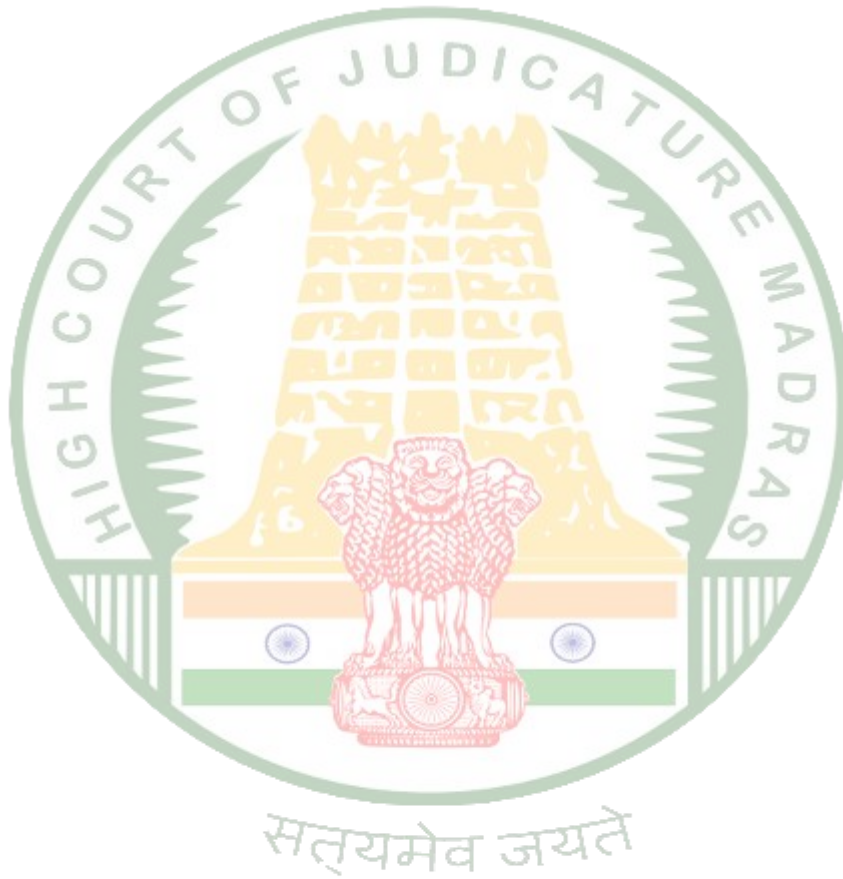
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+2 Ccs to M/s. I. John Arockiadas, Advocate sr 14360
+1 CC to Govt. Pleader sr 14702

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