

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:27.02.2018

Coram

THE HONOURABLE Mr. JUSTICE M.VENUGOPAL  
AND

THE HONOURABLE Mr. JUSTICE S.VAIDYANATHAN

W.P.No.18497 of 2017 and  
W.M.P.No.20067 of 2017

A.Iyyanar

.. Petitioner

Vs.

1.The District Collector,  
Office of the Collector,  
Tiruvallur District,  
Tamil Nadu.

2.The Tahsildar,  
Ambattur, Chennai - 600 083.

3.The Managing Director,  
Tamil Nadu Housing Board,  
Nandanam, Chennai - 600 035.

4.The Executive Engineer and Administrative Officer,  
Tamil Nadu Housing Board,  
Anna Nagar Division,  
Anna Nagar West Extension,  
Chennai - 600 101.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records in respect of the notice dated 05.12.2014 issued by the 2<sup>nd</sup> Respondent and quash the same and subsequently directing the 2<sup>nd</sup> Respondent to issue patta to the property belonged to the petitioner bearing Plot No.583-A, Korattur Village, Ambattur Taluk, Tiruvallur District situated in Survey Nos.1050/2 part and 1052/1 part of Korttur Village, measuring to a total extent of 2450 sq. ft. or thereabouts more fully described in the Sale Deed No.2010/2006 executed by the 4<sup>th</sup> Respondent herein.

For Petitioner : Mr.G.V.Shoba

For 1<sup>st</sup> & 2<sup>nd</sup> Respondents : Mr.R.Udhaya Kumar  
Additional Govt. Pleader

For 3<sup>rd</sup> & 4<sup>th</sup> Respondents : Mr.V.Anandamoorthy

O R D E R

[Order of the Court was made by M.VENUGOPAL, J.]

Heard the Learned Counsel for the Petitioner; Mr.R.Udhaya Kumar, Learned Additional Government Pleader for Respondents 1 and 2 and Mr.V.Anandamoorthy, Learned Counsel for Respondents 3 and 4.

2.According to the Petitioner, he is the owner of the property bearing Plot No.583-A, Korattur Village, Ambattur Taluk, Tiruvallur District comprised in Survey Nos.1050/2 part and 1052/1 part of Korttur Village to a total extent of 2450 sq.ft. which is alleged for the purpose of commercial/shop site.

3.The version of the Petitioner is that the 3<sup>rd</sup> Respondent/ Tamil Nadu Housing Board proposed to undertake the improvement scheme in Korattur commonly known as "Korattur Neighbourhood Scheme" and acquired lands and allotted the said lands to various persons and the commercial sites were allotted through sealed tender cum open auction, he purchased the said Plot No.583-A, through a sealed cum open auction on 15.07.2004 conducted by the 4<sup>th</sup> Respondent for the commercial/shop sites. Later, on 04.10.2004 the 4<sup>th</sup> Respondent issued a confirmation order and the 4<sup>th</sup> Respondent, after receipt of entire sum of Rs.21,33,000/-, handed over possession of the said Plot No.583-A, through its letter No.ANAL2/ 22482/04 dated 22.12.2004 and had executed an absolute sale deed in his favour which was duly registered as Sale Deed No.2010/2006 at the office of the Sub Registrar of Villivakkam on 25.05.2006. From the date of purchase, the Petitioner is in absolute possession and enjoyment of the property without any hindrance or encumbrances.

4.It comes to be known that after obtaining the vacant possession from the 4<sup>th</sup> Respondent, the Petitioner had put up a construction with cement sheeted roof in the Plot No.583-A and duly obtained electricity connection from the Tamil Nadu Electricity Board and on 14.03.2007 had applied for patta to the said property before the office of the 2<sup>nd</sup> Respondent. Since the property in question comes under the Revenue jurisdiction of the 2<sup>nd</sup> Respondent and as per directions of the 2<sup>nd</sup> Respondent's official, the Petitioner had annexed and submitted an application along with necessary documents issued to him by the 4<sup>th</sup> Respondent including the sale deed. From the year 2014, he was made to run from pillar to post, but his application for patta was not even pursued by the 2<sup>nd</sup> Respondent.

5.It transpires that on 05.12.2004 the 2<sup>nd</sup> Respondent had issued a notice to the Petitioner in and by which he was directed to quit and deliver vacant possession of the Plot

No.583-A to the 2<sup>nd</sup> Respondent on the allegation that the said land belongs to the Government of Tamil Nadu and that he was shown as an Encroacher of the plot bearing No.583-A. Immediately, on receipt of the notice, on 10.12.2014 the Petitioner had submitted a written explanation to the 2<sup>nd</sup> Respondent together with a copy of sale deed issued by the 4<sup>th</sup> Respondent and furnished other relevant records. Apart from that, he sent a request letter to the 4<sup>th</sup> Respondent to clear the encumbrances alleged by the 2<sup>nd</sup> Respondent. Neither the 2<sup>nd</sup> Respondent nor the 4<sup>th</sup> Respondent, according to the Petitioner, had perused his request letter and the explanation. Once again on 01.03.2016, the 2<sup>nd</sup> Respondent came to the plot No.583-A directly and demanded the Petitioner to quit and deliver vacant possession of the said plot for the same reason alleged at earliest point of time.

6.The Petitioner had sent a request letter on 01.03.2016 to the 2<sup>nd</sup> Respondent and to the 4<sup>th</sup> Respondent, but they remain silent and when he personally went to the office of the 2<sup>nd</sup> Respondent, he was informed that 'by mistake it has happened and now only we rectified our mistakes'. Hence, in the month of August 2016, the Petitioner decided to construct a permanent superstructure in the said Plot No.583-A and applied to the Corporation of Chennai and obtained planning permission from the Corporation of Chennai and also from the Chennai Metropolitan Development Authority after paying the due amount charged by them. In the month of February 2017, the Petitioner started the construction work in respect of Plot No.583-A on 06.02.2017, at about 11.00 a.m., a group of officials headed by a female officer came to the said plot and stated that they belong to the office of the 2<sup>nd</sup> Respondent and warned to stop construction work and once again started the demand of quit and deliver vacant possession. On 07.02.2017 the Petitioner as usual personally went to the office of the 2<sup>nd</sup> Respondent and lodged a complaint and narrated the facts and also sent a written request to the officials of the 3<sup>rd</sup> and 4<sup>th</sup> Respondents requesting them to clear the continuing problem. Soon after receipt of the Petitioners written request, the 4<sup>th</sup> Respondent sent a letter dated 07.02.2017, in and by which, it was clearly explained the facts that on what manner the lands were acquired and about the approval obtained from the Government and payment of land cost paid to the Collector of Tiruvattur and the manner of alienation of the lands and specifically requested the 2<sup>nd</sup> Respondent not to evict him from the said plot on 21.02.2017 he went to the 2<sup>nd</sup> Respondent, office and submitted a fresh application praying for issuance of patta to the Plot No.583-A of Korattur Village and also sent the same through RPAD which was received by the 2<sup>nd</sup> Respondent, however, no action has been taken by the 2<sup>nd</sup> Respondent, but the threatening is continued. Therefore, with no other option, the Petitioner issued a legal notice on 20.03.2017 to the 2<sup>nd</sup> Respondent calling upon to issue patta immediately to

him in respect of Plot No.583-A and not to disturb the construction work in the Plot No.583-A and copies of legal notices were sent to other Respondents through RPAD with acknowledgements due. The grievance of the petitioner is that till date neither the Respondents replied nor taken any action, which forced him to approach this Court to safeguard his rights by filing the present Writ Petition.

7. On behalf of the Respondents 1 and 2, Status Report is filed before this Court stating that the Executive of the 3<sup>rd</sup> Respondent/ Housing Board, Anna Nagar Division in his letter dated 07.02.2017 had informed that in Korattur Village an extent of 15.62 acres of Government lands including 124.71 acres of patta lands, the Layout was approved by MMDA vide No.P.P(C) No.64/76 and that the Housing Board had requested alienation proposal from the Government and the Government in G.O.Ms.No.67 Hg & U.D. Department dated 23.03.2010 to remit a sum of Rs.72,03,351/- to the Government for alienation purpose. The said amount was remitted in the Collector's Office, Thiruvallur including Padi & Mogagppair Village.

8. The Learned Additional Government Pleader for the Respondents 1 and 2 brings it to the notice of this Court that the land in Survey No.1052 part was included in the aforestated alienation proposal and as per the layout, the residential plot No.808, 844 & 845 and shop no.583-A Church, and Well Site (Plot No.842A) and 40' Station Road are involved in S.No.1052/1 Part. Besides these, the plot No.808, Shop No.583-A & Church was allotted and sale deed was already issued to the allottees, and the remaining Plot No.842-A well site, Plot No.844 & 845 the encroachments were to be evicted.

9. In this connection, it is to be pointed out by this Court that in the Status Report filed on behalf of the Respondents 1 and 2, at paragraph 5, it is mentioned that the 4<sup>th</sup> Respondent/Executive Engineer/Tamil Nadu Housing Board, Anna Nagar Division, in his letter dated .01.2015 had requested to evict the Encroachers in S.No.1052 Part and handed over the site to TNHB for allotment purpose. Based on the aforesaid request, the Tahsildar, Ambattur was issued notice under Section 6 of the Tamil Nadu Land Encroachment Act, 1905 to the encroachers in S.No.1052 Part in Korattur Village. Among others also, the notice under Section 6 of the Act was issued to the Petitioner (A.Iyyanar) S/o.Arujunan residing at No.14, New Natarapuram, MMDA Colony, Arumbakkam, Chennai 600 106 as he had made in Survey No.1052, classified as "Pattai", Korattur Village. By means of reply dated 10.12.2014, the Petitioner had mentioned that the commercial plot situated in S.No.1052/1 part and 1050/2 part measuring an extent of 2450 sq.ft. was allotted to him through an open auction conducted by the Tamil Nadu Housing Board, Anna Nagar Division and a sale deed was issued to him on

25.05.2006. Further, the Petitioner had submitted the allotment copy and the registered sale deed executed between the Tamil Nadu Housing Board and himself.

10.It is to be noted that the Tamil Nadu Housing Board had sold the plot No.583/A commercial plot measuring one ground 050 sq.ft. to the Petitioner situated in Survey No.1050/2 part and 1052/1 part of Korattur Village. Moreover, as per the village records the Survey No.1052/1 is classified as "Pattai". The 4<sup>th</sup> Respondent/ Executive Engineer of the Tamil Nadu Housing Board in his letter dated 07.02.2017 had informed that the S.No.1050/2 part was acquired through Award No.8/69 dated 14.08.1969 and handed over by the Special Tahsildar, Tamil Nadu Housing Board Scheme and a copy of the sale deed issued to the allottee was enclosed and requested not to evict the Petitioner from the plot.

11.In the counter filed by the 4<sup>th</sup> Respondent at para 5, it is among other things mentioned that 'the land in first Survey No.1052/1(P) comes under acquired land of Tamil Nadu Housing Board and later comes under the alienation of Government land to Tamil Nadu Housing Board. Further, as alienation proposal is under process, no name transfer was effected in favour of the Tamil Nadu Housing Board so far. Hence, the 2<sup>nd</sup> Respondent was addressed not to evict the Petitioner from the commercial plot No.583-A, Korattur Village. Added further, the Petitioner was informed about the delay in regard to the issuance of patta in respect of Plot No.583-A Korattur Village and also the 4<sup>th</sup> Respondent has taken action in continuously reminding the 2<sup>nd</sup> Respondent to effect the name transfer in the revenue record in favour of the Tamil Nadu Housing Board.

12.Although the impugned notice dated 05.12.2014 addressed to the Petitioner in respect of Korattur Village, S.No.1052 mentions a total extent of 00.795 and the nature of land being described as "Government Poramboke Pattai" in which Petitioner's enjoyment also mentioned as 'Cement Sheet' etc., considering the fact that the 4<sup>th</sup> Respondent/Tamil Nadu Housing Board had sold Plot No.583-A commercial plot measuring one ground 050 sq.ft. to the Petitioner situated in Survey No.1050/2 part and 1052/1 part of Korattur Village, by virtue of Sale Deed dated 25.05.2006 bearing Document No.2010/2006 and that the Petitioner, being a lawful purchaser, he cannot be evicted from the subject land characterising him as an "Encroacher". As such, the impugned notice issued by the 2<sup>nd</sup> Respondent without ascertaining about the real fact situation is hereby quashed by this Court, in the interest of Justice. In so far as the prayer for issuance of patta is concerned, it is open to the Petitioner to approach the Competent/Revenue Authority in accordance with Law and to seek necessary relief thereto.

13.Before parting with the case, it is represented on behalf of the Petitioner that he had already approached the concerned Revenue Authority seeking issuance of patta. Hence, this Court directs the 2<sup>nd</sup> Respondent/Tahsildar, Ambattur, Chennai to look into the matter of the Petitioner seeking issuance of patta, with all seriousness and earnestness, and to take a final call in the matter, within a period of four weeks from the date of receipt of a copy of this order.

14.With the aforesaid observations and directions, the Writ Petition stands disposed of. No costs.

Sd/-  
Asst.Registrar (CS III )

/true copy/

Sub Asst. Registrar

Sgl  
To

- 1.The District Collector,  
Office of the Collector,  
Tiruvallur District,  
Tamil Nadu.
- 2.The Tahsildar,  
Ambattur, Chennai - 600 083.
- 3.The Managing Director,  
Tamil Nadu Housing Board,  
Nandanam, Chennai - 600 035.
- 4.The Executive Engineer and Administrative Officer,  
Tamil Nadu Housing Board,  
Anna Nagar Division,  
Anna Nagar West Extension,  
Chennai - 600 101.

- + 1 cc to Mr.V.Anandamoorthy Advocate,SR.14936
- + 1 cc to M/s.R.Augustine Advocate,SR.14883
- + 1 cc to The Govt.Pleader, SR.15940

W.P.No.18497 of 2017

gmr (co)  
nr 20/03/2018