

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2018

CORAM:

THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.38429 of 2003

Maragatham

.. Petitioner

Vs.

1. The Collector of Chennai,
Office of Collectorate,
Chennai.

2. The District Revenue Officer,
Chennai -1.

3. K.Sivanandam
Respondents.

..

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records in pursuant to the impugned order of the second respondent passed in Se.Mu.Order No.J4/23351/2002, dated 09.10.2003, which was received by the petitioner on 04..11.2003 and to quash the same and consequently directing the respondents not to interfere with the peaceful possession and enjoyment of the property bearing Door.No.31, Sundaram Second Lane, Vyasarpadi, Chennai -39 comprised in R.S.No.540/61 to the extent of 1242 sq.ft (Previous R.S.No.540/2, Previous Survey No.69, C.C.No.2590) in Block No.27, bounded on the North by Old Poosammal and Rangarajan House, South by the petitioner's house and Kannayiram House, East by Sundaram Second Lane, West by Chinnathambi Vagaiyara property.

For Petitioner : No Appearance
For Respondents : Mr.M.Elumalai (for R1 and R2)
Government Advocate
Mr.N.Ishtiaq Ahmed (for R3)

O R D E R

This writ petition has been filed, seeking to quash

the impugned order dated 09.10.2003, passed by the second respondent passed in Se.Mu.Order No.J4/23351/2002, in and by which, the patta granted to the petitioner was cancelled. The petitioner also sought a direction to the respondents not to interfere with the peaceful possession and enjoyment of the property bearing Door.No.31, Sundaram Second Lane, Vyasarpadi, Chennai -39 comprised in R.S.No.540/61 to the extent of 1242 sq.ft (Previous R.S.No.540/2, Previous Survey No.69, C.C.No.2590) in Block No.27, bounded on the North by Old Poosammal and Rangarajan House, South by the petitioner's house and Kannayiram House, East by Sundaram Second Lane, West by Chinnathambi Vagaiyara property.

2. It is the case of the petitioner that on account of the interference of the third respondent in the peaceful possession and enjoyment of the property, she was constrained to move the Civil Court for appropriate remedy and the Civil Court had also decreed the suit in favour of the petitioner, thereby restraining the third respondent and his wife from interfering with her peaceful possession. While so, based on the complaint of the third respondent dated 29.04.2002, she was asked to show cause as to why the patta granted to her should not be cancelled. It is the further case of the petitioner that though she had duly submitted her explanation to the show cause notice, the 2nd respondent, without conducting any enquiry or affording any opportunity of hearing, has simply cancelled the patta. Aggrieved by the same, the petitioner is before this Court.

3. There is no representation for the petitioner. Heard Mr.M.Elumalai, learned Government Advocate appearing for the respondents 1 and 2 and Mr.N.Ishtiaq Ahmed, learned counsel appears for the 3rd respondent.

4. On a close scrutiny of the entire factual matrix and upon hearing the submission placed by the respective counsel for the respondents, it is seen that already there is a cloud over the property with regard to the extent and peaceful possession of the property. According to the 2nd respondent, during enquiry, it was found that an extent of 675 sq.ft alone belonged to the petitioner as against the claim of 1215 sq.ft. and therefore, the patta in respect of 1215 stood cancelled.

5. A perusal of the entire averments in the petition would clearly reveal the fact that the dispute is essentially of civil in nature and it was also claimed that the petitioner had been granted interim injunction by the Civil Court on earlier occasion also. Therefore, this Court is of the view that this Court has no power under the writ jurisdiction to decide anything on the matter, as the matter was already sub judice

before the Civil Court and it is for the parties to establish their rights whatsoever in respect of the property in question only before the Civil Forum.

6. Hence, finding no merits in the petition, this writ petition is dismissed as devoid of merits. Both the writ petitioner and the third respondent are at liberty to move the Civil Court for appropriate relief, if so desired. No costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

To

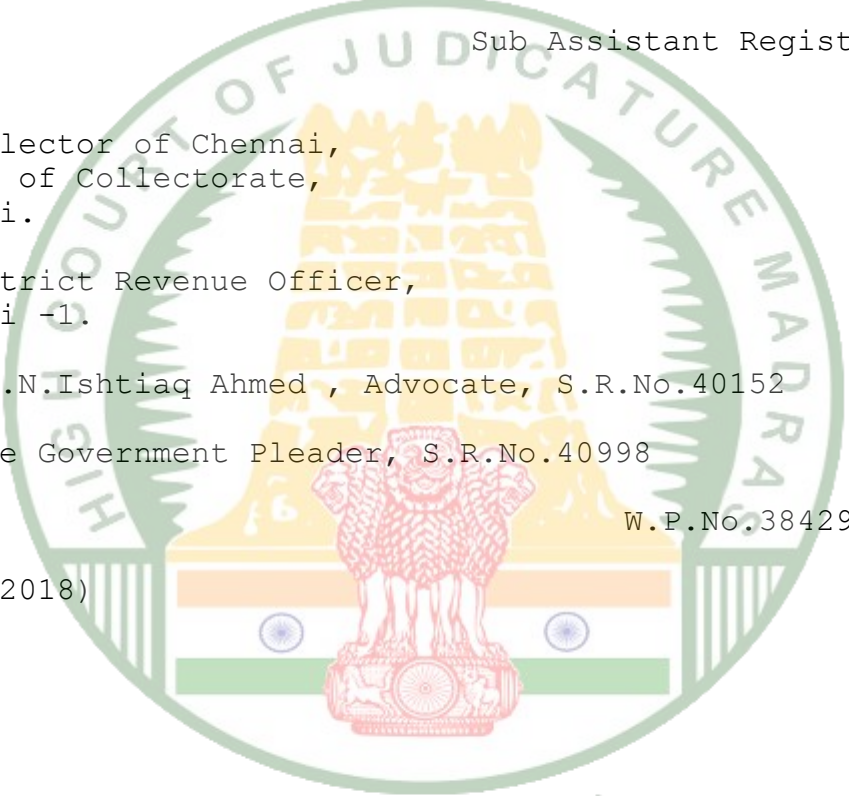
1. The Collector of Chennai,
Office of Collectorate,
Chennai.
2. The District Revenue Officer,
Chennai -1.

+1cc to Mr.N.Ishtiaq Ahmed , Advocate, S.R.No.40152

+1cc to the Government Pleader, S.R.No.40998

W.P.No.38429 of 2003

GSP (31/07/2018)



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