



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.11.2019

Coram::

The Honourable Dr.Justice G.Jayachandran

W.P.No.13616 of 2019

Sriram Avenue Plot Owners Welfare Association,
Rep. by its Vice President,
G.Antony Michaelraj,
having Office at No.70, F4, CVD Civilian Quarters,
PTMS, Avadi IAF,
Chennai - 600 055. Petitioner

/versus/

1. The Collector,
Thiruvallore District,
The Office of the Collector,
Tiruvallore - 602 001.
2. The District Revenue Officer,
Thiruvallore,
Tiruvallore District.
3. The Revenue Divisional Officer,
Thiruvallore,
Tiruvallore District.
4. The Tahsildar,
Avadi Taluk,
Office of the Tahsildar,
Avadi.
5. Mr.P.Bharath Sharma,
S/o. Mr.Poonam Chand Sharma,
No.205, New Military Road, Avadi, Chennai - 600 054.
6. The Special Tahsildar,
Town Settlement Survey,
Avadi,
Chennai - 600 054. Respondents

R6 - Impleaded as per order dated 15.07.2019 by PDAJ in
W.M.P.No.20165/2019 in W.P.No.13616 of 2019

Prayer: Writ Petition is filed under Article 226 of the
Constitution of India, praying to issue Writ of Mandamus,

directing the respondents 1 to 4 to dispose of the representation dated 10.09.2018, within the time stipulated by this Hon'ble Court.

For Petitioner : Mr.J.Chelladurai Caldwell,

For R1 to R4, R6: Mr.J.Purushothaman,
Government Advocate

For R5 : Mr.D.Sadhasivan

O R D E R

Heard the Learned Counsel for the Petitioner and the Learned Counsel for the respondents

2. Perusal of the affidavit and the pleadings, this Court finds that the land in S.No.96/2, Tirumullaivoyal, Avadi Taluk, Tiruvallore District, admeasuring 1 Acre 42 cents was promoted as a layout in the name of Sriram Avenue layout by one E.Jayachandran as a Power agent of Mrs.Jeya and Mrs.Prema. The Principal of E.Jayachandran has acquired the property through a settlement deed executed by one Mr.Elumalai on 21.12.1988. After forming the layout, several persons have purchased the property and some of them have put up construction. The property has been sub divided as S.Nos.96/2 A to 96/2S. Patta was issued to those purchasers who are members of the petitioner's Association. While so, in the year 2009, the revenue records has been mutated and entire extent of land were all put together and patta was issued to one Mr.P.Bharath Sharma, S/o. Mr.Poonam Chand Sharma, who is the 5th respondent in this Writ Petition. When the members of the petitioner's association came to know about this, they sent a representation on 10.09.2018 to the respondents 1 to 4, to conduct enquiry and cancel the patta given in favour of the 5th respondent in respect of the property falling under old S.No.96/2. Since there was no proper response, the present Writ Petition is filed seeking Mandamus to dispose of the representation dated 10.09.2008.

3. The Special Tahsildar has filed counter, wherein, it is stated that as below:-

"It is respectfully submitted that the back file relating to issue of patta and in favour of Thiru.R.Parthiban and Antony Michael Raj measuring an extent of 292 and 167 square meters respectively out of total extent of

5429 square meters owned by the registered holder Tmt.Manonmani Ammal in Ward D2, T.S.No.8, newly sub-divided as T.S.Nos.8/12 and 8/13 in Thirumullavoyal Village could be secured. A verification of back file reveals that the said Thiru.R.Parthiban has possessed the property from Tvl.G.Elumalai and his daughter A.Prema and his wife Tmt. Jaya through their son and power agent Thiru Jayachandran through registered document No.4600 of 2000, dated 16.09.2000. The case property was originally owned by Manonmaniammal who died on 17.03.1973. Prior to her death, the property was stated to have been given to the said Elumalai through a will document in the presence of Villagers and since then, the property was stated to be under the possession and enjoyment of Thiru Elumalai. The said Elumalai has also obtained patta in his favour under Patta No.2654 for which he produced an extract of 10(1) Chitta issued by the Village Administrative Officer, Thirumullaivoyal on 24.05.2011. The said Thiru.Jayachandran S/o.Elumalai, had converted the land in S.No.96/2 into lay out known as Sri Ram Avenue and divided the land into housing plots.

It is respectfully submitted that in the absence of records pertaining to issue of patta to the 5th respondent by then Special Tahsildar, Town Settlement, Avadi, during the year 2009, it could not be ascertained as to how the patta for the whole extent of 1.42 acres in Survey No.96/2 was issued in favour of the 5th private respondent. Though all the documents relied on by the petitioner in support of his claim in the present affidavit relates to the Special Tahsildar, Town Settlement, Avadi, the Special Tahsildar, Town Survey and Settlement, Avadi, is not impleaded as a respondent for the reasons best known to the petitioner."

4. Subsequent to this counter, the petitioner has filed implead petition to implead Special Tahsildar, Town Settlement, Avadi. According to the typed set filed of the 5th respondent, they traced title over the land in S.No.96/2 through three sale deeds executed on 20.10.1989 by one P.Jittan and four others in favour of Praveen Rajendran, Sharmila Rajendran and Indira

Rajendran, who have sold the 0.47 cents each, out of 1 acres 42 cents of land in S.No.96/2 to the above said persons. Later, the 5th respondent vide sale deed dated 29.08.2006 has purchased the property from G.Rajendran and others, 1 acres 42 cents of land in S.No.96/2 tracing tile from the three sale deeds along with 1 acre of land in S.No.97/1 and the said deed has been registered at SRO, Ambatur, on 29.08.2006 and subsequently, under the Town Survey and Settlement, patta has been issued to the 5th respondent. The parent deed of the 5th respondent namely sale deed of Jittan and four others, in favour of Praveen Rajendran and others through three sale deeds executed on the same day. The said Jittan son of Pachi, has claimed the said property as absolute property and sold it to Praveen Rajendran and others, which in turn sold to 5th respondent.

5. There is no proper tracing of title and in any event as pointed by the Tahsildar, under what circumstances, the patta was changed in favour of the 5th respondent and records pertaining to that could not be ascertained for want of records. Since, bifurcation of Revenue District and formation of new Settlement Office at Avadi, from 03.07.2017, the present Tahsildar is unable to trace the records. Under the Patta Passbook Act, once the Tahsildar completes the enquiry and issued patta, except for mutation and other consequential change, fall under the category of modification, the Tahsildar, shall be become functus officio and only appeal has to be preferred to the Authorities prescribed under the Act, who is the Regional Divisional Officer, as per Section 12 of Patta Passbook Act.

6. In this case, the patta which was issued earlier to the members of the petitioners association, who have purchased the Housing site from the Sriram avenue layout. Without enquiry subsequently the patta of their has been assigned to 5th respondent. The Tahsildar, in his counter could not ascertain the reasons and manner in which and why the patta was given in favour of the 5th respondent.

7. In the said circumstances, the Officer, who is higher in rank of Tahsildar and authorised under the statute alone can be a proper person to consider the grievance of the petitioner herein. Though it is only representation, the letter of the petitioner dated 10.09.2018, shall be treated as an appeal by the Revenue Divisional Officer, Thiruvallur, under Section 12 of Patta Passbook Act and after affording opportunities to all the parties concerned, appropriate orders shall be passed on verifying the documents as well as the revenue records. The said exercise shall be completed within a period of four months, from the date of receipt of a copy of this order.

8. With the above direction, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

bsm
To,

1. The Collector,
Thiruvallore District,
The Office of the Collector,
Tiruvallore - 602 001.
2. The District Revenue Officer,
Thiruvallore,
Tiruvallore District.
3. The Revenue Divisional Officer,
Thiruvallore,
Tiruvallore District.
4. The Tahsildar,
Avadi Taluk,
Office of the Tahsildar,
Avadi.
5. The Special Tahsildar,
Town Settlement Survey,
Avadi,
Chennai - 600 054.

+1cc to Mr.S.Chelladurai, Advocate SR.No. 98270
+1 cc to Government Pleader Sr.No. 98913

W.P.No.13616 of 2019

A.SK(07/01/2020)

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