

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2020

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.37362 of 2005

and

W.P.M.P.No.40018 of 2005

Mrs.M.Jayalakshmi

.. Petitioner

-vs-

The Revenue Divisional Officer,
Office of the District Collectorate,
Kancheepuram-631 501.

.. Respondent

Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for records leading to the passing of the impugned order bearing No.Mu.Mu.7434/03/A1 dated 05.07.2005 passed by the respondent and to quash the same.

For Petitioner : Mr.K.Bijai Sundar

For Respondent : Ms.A.Madhumathi,
Special Government Pleader

ORDER

The petitioner seeks for issuance of Writ of Certiorari to quash the order passed by the respondent dated 05.07.2005, by which the patta granted in favour of the petitioner was cancelled.

2.The petitioner's father is stated to have purchased a property by registered sale deed dated 08.06.1949 and patta was granted in favour of the petitioner's father. Thereafter, patta was issued in favour of the petitioner and she continues to be in possession and enjoyment of the property. While so, part of the lands, for which patta had been granted to the petitioner, were subject matter of land acquisition proceedings for Highways Department. In the proceedings initiated for acquisition dated 30.09.2005, the name of the petitioner finds place to be the owner of the lands in Survey No.192/5, which has been classified

as "gramanatham", the total extent is mentioned as 380 square metre and the extent acquired was 93 square metre. The petitioner is stated to have been given compensation for the extent acquired, viz., the portion of the land and the building standing thereon.

3. So far as the cancellation of patta is concerned, perusal of the show cause notice, which was issued, shows that the lands, for which patta had been granted to the petitioner have not been mentioned in the show cause notice. However, in the impugned order, the same has been mentioned and the patta has been cancelled on the sole ground that the petitioner is not residing there.

4. In the considered view of this Court, when patta was granted in the year 1995, though it is termed as "Thoraya Patta", the petitioner continues to be in possession and enjoyment and precisely for such reason, she was given compensation for acquiring portion of the property and the building. Therefore, without following the proper procedure and without issuing a comprehensive show cause notice, the patta could not have been cancelled. That apart, the petitioner's explanation that she was compelled to be away from the property because the entire building was demolished also needs to be examined for its correctness and genuinity. Since this Court is satisfied that there has been a gross procedural error in the manner in which the decision was taken, the impugned order calls for interference. For such reason, the writ petition is allowed and the impugned order dated 05.07.2005 is set aside, leaving it open to the respondent to initiate fresh action in accordance with law, if a need arises. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy//

Sub Assistant Registrar

abr

To

The Revenue Divisional Officer,
Office of the District Collectorate,
Kancheepuram-631 501.

+1cc to the Government Pleader sr 19248

+1cc to Mr.K.BijaiSundar, Advocate sr 19053

W.P.No.37362 of 2005

SSD(CO)

GS(20/05/2020)