

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.06.2020

CORAM:

THE HONOURABLE Mr. JUSTICE N. ANAND VENKATESH

W.P.No.7269 of 2020

R.Panchavarnam

...Petitioner

-Vs-

1. The District Collector,
Collectorate,
Chennai.

2. The District Revenue Officer,
District Revenue Office,
Chennai.

3. The Revenue Divisional Officer,
Revenue Divisional Office,
Ambattur, Chennai.

4. The Tahsildar,
Madhavaram, Madhavaram Taluk,
Chennai 66.

5. A.Kalavaram

6. K.Jayanthi

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 to 4 to cancel the patta issued to the 5th respondent in old Survey No.448 and new survey No.855/10 in Patta No.315 admeasuring 1539 Sq. ft. in the Sub register office at Redhills, No.52, Puzhal vilage, Madhavaram Taluk, Chennai and consequently direct the 4th respondent to issue patta in the name of the petitioner.

For Petitioner : Mr.K.Murugesan

For Respondent : Mr.S.N.Parthasarathi
Government Advocate

O R D E R

This writ petition has been filed for the issue of writ of mandamus directing the respondents 1 to 4 to cancel the patta issued in favour of the 5th respondent and consequently, direct the 4th respondent to issue patta in the name of the petitioner.

2. The learned counsel for the petitioner submitted that a Power of Attorney was executed in favour of the husband of the petitioner by the 5th respondent and the property was sold in favour of the petitioner by a registered Sale deed dated 19.02.2017. The learned counsel further submitted that the 5th respondent by concealing this fact, has submitted a representation before the 4th respondent and has obtained patta for the same property including a 7 feet common passage and a patta has also been issued in favour of the 5th respondent. The learned counsel further submitted that the 5th respondent has thereafter executed a settlement deed in favour of the 6th respondent, who is his wife, by a registered Settlement Deed dated 17.01.2004. The learned counsel submitted that the main grievance of the petitioner is that the 5th respondent has illegally included the property belonging to the petitioner and also the common passage and has executed the settlement Deed in favour of the 6th respondent and a patta has also been granted to the 6th respondent. Therefore, the petitioner made a representation to the respondents 1 to 4 requesting them to take necessary action to cancel the patta issued in favour of the respondents 5 and 6 and to consequentially issue patta in favour of the petitioner.

3. Mr.S.N.Parthasarathi, learned Government Advocate appearing for the official respondents submitted that the issue that has been canvassed by the petitioner involves the right and title over the property and the same can be agitated only before an appropriate civil forum. The learned counsel further submitted that at the best the petitioner can file an Appeal before the Revenue Divisional Officer under the Patta Passbook Act and work out her remedy and the 4th respondent will not have any jurisdiction to cancel the patta issued in favour of the respondents 5 and 6 and issue a fresh patta in favour of the petitioner.

4. This Court has carefully considered the submissions made on either side and also perused the materials available on record.

5. This Court finds force in the submissions made by the learned Government Advocate appearing on behalf of the

official respondents. As rightly contended by the learned Government Advocate, the petitioner has to either work out her remedy before the appropriate Civil Forum and establish her right and title over the property and if the petitioner is more particular about the cancellation of the patta issued in favour of the respondents 5 and 6, then the petitioner has to only file an appeal before the Revenue Divisional Officer and work out her remedy.

6. In view of the above, the relief as claimed by the petitioner cannot be granted by this Court and the writ petition is disposed of by giving liberty to the petitioner to either work out her remedy before the appropriate civil forum or / and file an Appeal before the 3rd respondent, viz., the Revenue Divisional Officer, Ambattur. If the petitioner chooses to file an appeal, he shall file the Appeal within a period of 30 days from the date of receipt of copy of this order before the 3rd respondent and the 3rd respondent shall consider the same strictly in accordance with law, after issuing notice to all the interested parties and pass appropriate orders as expeditiously as possible. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Collectorate,
Chennai.
2. The District Revenue Officer,
District Revenue Office,
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3. The Revenue Divisional Officer,
Revenue Divisional Office,
Ambattur, Chennai.
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Madhavaram, Madhavaram Taluk,
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VSN II (CO)
KKV/17/07/2020