

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2020

CORAM:

THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

W.P.No.35218 of 2019

and

W.M.P. No. 36005 of 2019

M/s.South Coast Constructions Pvt. Ltd.,
Rep. by its Director Mr.Bhavin Kishore Jain,
No.A-170, Kakkan Colony,
Kodambakkam High Road,
Nungambakkam,
Chennai - 600 053.

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Chennai - Central Revenue Division,
Ambattur, Chennai - 600 053.

2.The Tahsildar,
Aminjikar Taluk Office,
Shenoy Nagar, Chennai - 600 030.

3.The Commissioner,
Greater Chennai Corporation,
Ripon Building, Chennai - 600 003.

4.The Zonal Officer,
Division - 101,
No.36-B, Shenoy Nagar,
Chennai - 600 030.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondents in her impugned proceeding, Na.Ka.3650/2019/A5, dated nil.11.2019 and quash the same as arbitrary, ultravires and illegal and consequently direct the respondents 1 and 2 to maintain status quo regarding revenue records in respect of the land and building of the petitioner in Patta, namely certificate of Extract from the Town Survey Land Register, comprised in T.S.No.13/2 (upon subdivision), measuring 0.08.5 hectares, as per documents Survey No.13/part (13,274 sq.ft.), Block No.17 of Perikudal Village, situate at No.1, Breweri Road, Shenoy Nagar, Aminjikarai Taluk, Chennai - 600 030 (Previously Egmore-Nungambakkam Taluk) pending

decision in the civil disputes between the petitioner and the respondents 3 & 4.

For Petitioner	:	Mr. R.Suresh Kumar
For Respondents - 1 & 2	:	Mr. S.N.Parthasarathi Government Advocate
For Respondent - 3 & 4	:	Mrs. Karthika Ashok Standing Counsel

O R D E R

This Writ Petition has been filed challenging the impugned proceedings of the first respondent dated 29.11.2019 wherein the patta that was transferred in the name of the petitioner was cancelled and it was restored in the name of the Corporation of Chennai.

2. The case of the petitioner is that they had purchased the property in the year 1995 by way of registered sale deed on 28.11.1995. Thereafter, the petitioner had applied for issuance of patta before the Tahsildar and patta was also granted in favour of the petitioner on 28.06.2019. In the meantime, the corporation had given a complaint to the District Revenue Officer citing that patta was standing in the name of the Corporation of Chennai in Survey No.22/1A and therefore, the patta ought not to have been granted in favour of the petitioner. This dispute was referred to the file of the first respondent and the first respondent had issued a notice to the petitioner calling for explanation. The first respondent after considering the entire circumstances of the case and the documents furnished by the parties, came to a conclusion that the order granted in favour of the petitioner could not be sustained and accordingly cancelled the same and restored the patta in favour of the Corporation of Chennai. Aggrieved by the same, the present Writ Petition has been filed before this Court.

3. Learned counsel for the petitioner submitted that the first respondent did not have the jurisdiction to cancel the patta and restore the same in the name of the corporation. To substantiate the same the learned counsel relied upon the judgment of this Court reported in 2012(3) CTC 823 [T.R.Dinakaran Vs. The Revenue Divisional Officer].

4. Learned counsel further submitted that already a suit was filed before the City Civil Court in O.S. No. 9243 of 2019 for bare injunction and the said suit is pending and in the meantime, the respondents were attempting to dispose the petitioner from the property. Learned counsel submitted that the stand taken by the corporation now causes cloud over the title of the petitioner and therefore, the petitioner is taking steps to file a suit for declaration. Therefore, the learned counsel

for the petitioner submitted that till the Civil Court decides the title over the property, the order passed by the first respondent must be kept in abeyance.

5. The fourth respondent has filed a detailed counter in this case. The specific case of the fourth respondent is that the property was acquired and the patta stood in the name of the Corporation of Chennai in the year 2016. Thereafter, the petitioner has managed to get the patta in his favour behind the back of Corporation of Chennai and the same was rightly cancelled by the first respondent.

6. Learned Standing Counsel appearing on behalf of the Corporation, apart from reiterating the stand taken in the counter, further submitted that the order passed by the first respondent was not in exercise of his original jurisdiction and the first respondent had actually exercised the appellate jurisdiction since the Tahsildar had issued a patta in favour of the petitioner illegally knowing fully well that the patta was already standing in the name of the Corporation of Chennai. Therefore, learned counsel submitted that the judgment cited by the petitioner will not have any relevance to the facts of the present case. Learned counsel submitted that the petitioner had played fraud and had obtained the patta and the same was rightly cancelled by the first respondent and therefore, the same does not require any interference of this Court.

7. Learned Government Advocate appearing on behalf of the first respondent submitted that the Tahsildar had illegally issued a patta in favour of the petitioner while the patta was already standing in the name of Corporation of Chennai. Therefore, the first respondent, in exercise of his appellate jurisdiction, had cancelled the order passed by the Tahsildar and restored the patta in favour of the Corporation of Chennai. Learned counsel submitted that the petitioner had played fraud and had purchased the property which was already acquired by the Corporation of Chennai and therefore, the said sale itself does not bind the Corporation of Chennai and consequently, the petitioner was not entitled for patta. Learned counsel submitted that the judgment relied upon by the learned counsel for the petitioner will not have any relevance to the facts of the present case.

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

9. The documents that were placed before this Court shows that the corporation had acquired the property situated in Survey No.22/1A. It is also seen from the records that the patta stood in the name of Corporation of Chennai even in the year

2016. The petitioner had purchased the same property in the year 2015 and has applied for patta before the concerned Tahsildar. The concerned Tahsildar, even without verifying the revenue records, had issued patta in favour of the petitioner. It is also seen that a criminal case has been filed by the Chennai Corporation and the concerned Tahsildar has also been made as an accused in the case. The patta issued by the Tahsildar became a subject matter of challenge before the first respondent. The first respondent has categorically found in the impugned order that the patta stood in the name of Corporation of Chennai in the year 2016 and the same was issued by mistake to the petitioner and therefore, the patta issued in favour of the petitioner has to be necessarily cancelled. Consequently, the first respondent has directed that the patta to be restored to its original state wherein, it was standing in the name of Corporation of Chennai.

10. This Court does not find any illegality or infirmity in the order passed by the first respondent. The judgment that was cited by the learned counsel for the petitioner will not have any relevance to the facts of the present case. This is a case where the property stood in the name of Corporation of Chennai in the revenue records and in spite of the same, the Tahsildar had issued patta in favour of the petitioner. Therefore, the very issuance of the patta in the name of the petitioner, behind the back of the Corporation of Chennai, is liable to be set aside. The first respondent has rightly passed an order to that effect. This Court does not find any ground to interfere with the same. If the petitioner feels that they have the right and title over the property, they have to workout their remedy before the Civil Court, in accordance with law.

11. In the result, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III-MDU)

//True Copy//

Sub Assistant Registrar

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To

1.The Revenue Divisional Officer,
Chennai - Central Revenue Division,
Ambattur, Chennai - 600 053.

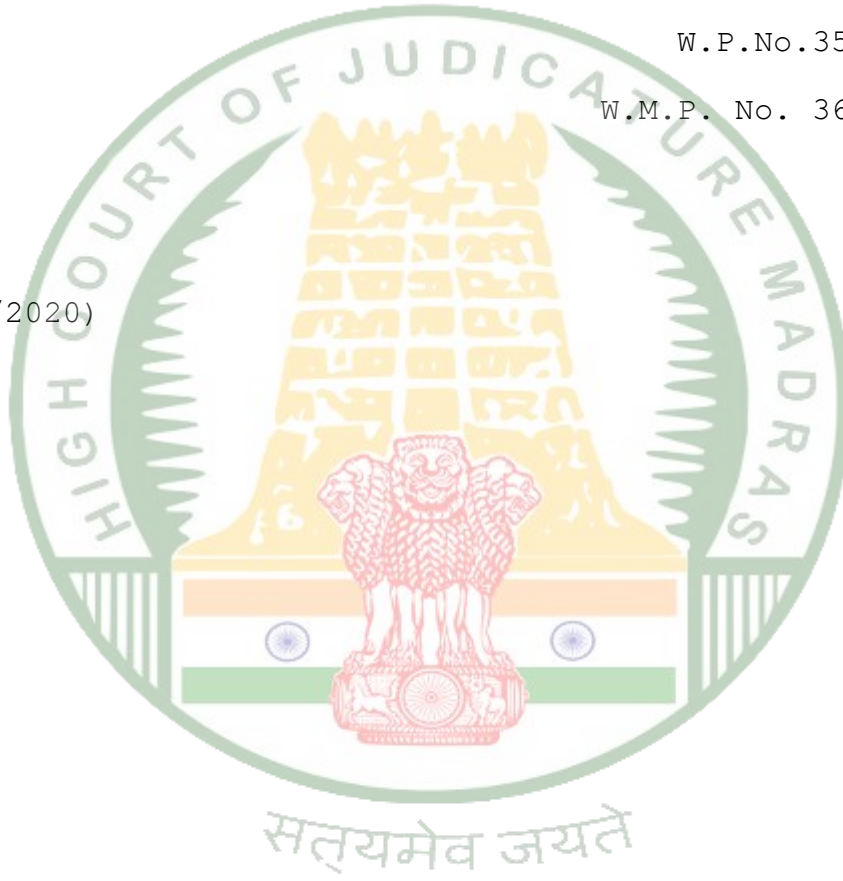
2.The Tahsildar,
Aminjikar Taluk Office,
Shenoy Nagar, Chennai - 600 030.

+lcc to Mr.R.Suresh Kumar, Advocate, Sr.No.21314.
+lcc to Mr.Karthika Ashok, Advocate, Sr.No.21303.

W.P.No.35218 of 2019
and
W.M.P. No. 36005 of 2019

RSK(CO)

klt(22/05/2020)



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