

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2021

CORAM : JUSTICE N.SESHASAYEE

W.P.No.4272 of 2019

P.S.Prema

... Petitioner

Vs

1. The District Collector
Greater Chennai District
Rajaji Salai
Chennai - 600 001.

2. The Tahsildar
Egmore Taluk
Chetpet
Chennai - 600 031.

3. The Secretary to the Government
Revenue Department
Fort St.George
Secretariat
Chennai - 600 009.

.... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the respondents to issue patta according to the said G.O.No.34 dated 23.01.2008 and the proceedings bearing No.Na.Ka.J3/17341/2007 dated 28.02.2008 of the first respondent.

For Petitioner : Mr.T.V.Vineeth Kumar

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

ORDER

The petitioner has been assigned an extent of 1194 sq.ft., of land in Survey No.74/2, Block No.8 in Kodambakkam, Chennai. Out of this, 870 sq.ft. has been granted as an assignment for the homeless under G.O.Ms.No.34 dated 23.01.2008, and for the remainder extent of 324 sq.ft., it is to be assigned on payment of requisite charges.

2. According to the petitioner, a sum of Rs.18,260/- has been paid towards that sometime in April 2008. However, the patta has not yet been granted, instead an assignment order in Form-D in terms of BSO 21 has been issued, by which, the petitioner would be entitled to obtain patta on the expiry of 10 years from the date of the order. That order expired sometime in 2018, yet the petitioner was not granted the ground rent patta. Hence, she has come before this Court with the present petition.

3.1 Heard Mr.S.N.Parthasarathi, learned Government Advocate for the respondents. He brought to the notice of the Court, the paragraph No.7 of the counter affidavit filed by the second respondent. He submitted that since this is the new development, post the report of the Comptroller and Auditor General of India for the year 2014-2015, the Tahsildar is not in a position to overlook it. The learned Government Advocate also took this Court to the decision of the Full Bench of this Court in T.K.Shanmugam and Others Vs. The State of Tamil Nadu and Others reported in [(2015) Writ LR 1029].

3.2. It is relevant to extract paragraph No.7 of the counter affidavit :

7. I respectfully submit that in the case of the writ petitioner herein, though the order of assignment was issued furnishing the Town Survey number of the portion of land held by the writ petitioner in T.S.No.74/2, no such sub-division has been carried out in the Town Survey Land Records. Moreover, the said land still stands classified as "Sarkar Poromboke" in the Revenue Records. Further, the grant of patta has become online a couple of years ago and provisions are not made in the software to grant patta to the lands stand classified as "Sarkar Poromboke" straight away. Before granting patta to the writ petitioner, the classification has to be changed from "Sarkar Poromboke" to Ground Rent. Besides this, I respectfully submit that in respect of the land in Block No.9 of Puliyur Village, which is situated on the western side of the land of the writ petitioner herein, the Comptroller and Auditor General of India for the year 2014-2015 -263rd Report (XIV) Assembly has pointed out as follows :

"2.1.9.3: Encroachment in a lake

Revenue records of Puliyur Village, Egmore Taluk, maintained at Chennai Collectorate, classify survey numbers 33 o 47 (except Survey Numbers 28 and 42) in Block No.9, as a water body (lake) spread over an extent of 1.45 hectares. However a comparison of this area using satellite imagery (Exhibit 2.11) for the periods October 1965 to

March 2016 revealed that the entire lake was encroached by buildings etc., indicating inaction of Revenue Department in directing and evicting the encroachment in time."

The aforesaid land in Block No.8 is very near to the lake area and situated on the eastern side of the said lake area. Hence, the Revenue Department is to be doubly cautious before granting "Ground Rent" patta in this case. Hence, there is delay in proceeding further. However, in the circumstances stated supra, the request of the writ petitioners is under consideration. A decision in this regard would be taken soon in consultation with the Government.

4. The learned counsel for the petitioner submitted that the plot under consideration is nowhere near the water body.

5. There now appears to be a conflict as to the certain facts. The issue now is whether the property which is proposed to be assigned to the petitioner, is a water body as mentioned in the report of the Comptroller and Auditor General of India. This Court, therefore, required the Tahsildar, Egmore Taluk, the second respondent herein to hold an enquiry to enable the petitioner to place her side of the case, for him/her to arrive at a final conclusion in the matter.

6. Accordingly, this Court dispose of this petition with a direction to the Tahsildar, Egmore Taluk/ second respondent to hold an enquiry into the matter and dispose of the representation of the petitioner dated 27.11.2018 within a period of three months after issuing an appropriate notice to the petitioner and also after giving her a fair and effective hearing in the matter. It is made clear that the time herein specified for the disposal of the said representation is exclusive of any time that may be lost to the Tahsildar due to any responsibility that might be assigned to him in connection with the ensuing General Election of the Tamil Nadu State Legislative Assembly, 2021. No costs.

WEB COPY
Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ds

To:

1.The District Collector
Greater Chennai District
Rajaji Salai
Chennai - 600 001.

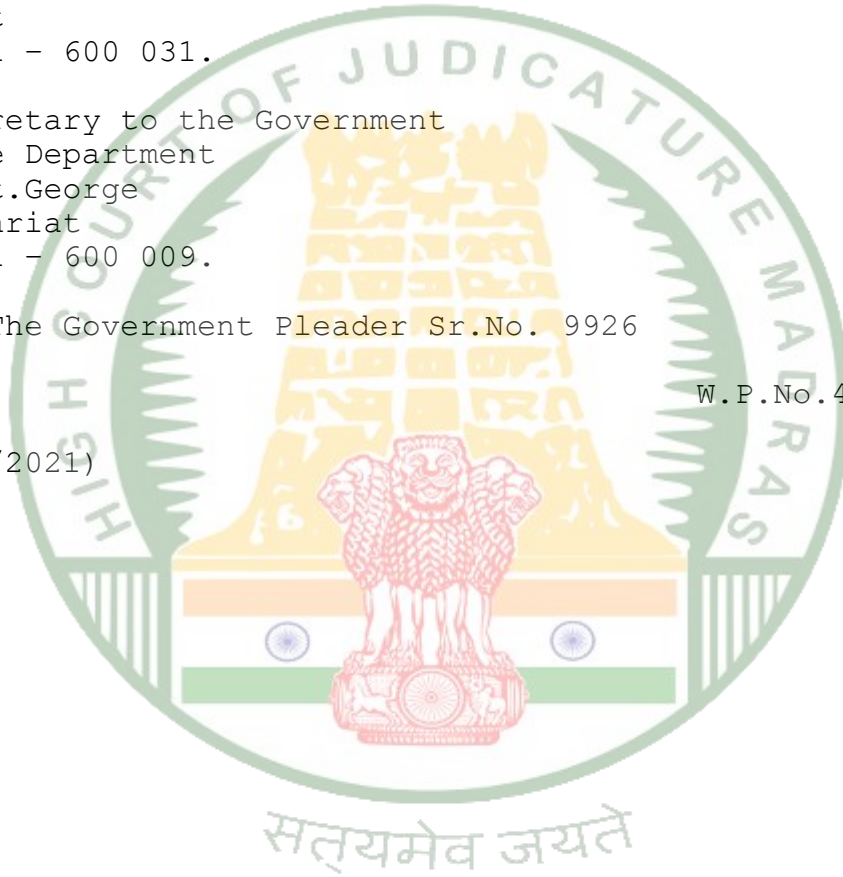
2.The Tahsildar
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3.The Secretary to the Government
Revenue Department
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Chennai - 600 009.

+1 cc to The Government Pleader Sr.No. 9926

W.P.No.4272 of 2019

PMK (CO)
RMP (25/03/2021)



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