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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2021

CORAM:

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P. No.13150 of 2019

A/M. Marga Sahaya Eswarar etc.
Vara Siddhi Vinayakar and Karunakara Perumal Temple
rep by its Executive Officer,
Maduravoyal, Chennai- 600 095. ... Petitioner

-Vs-

- 1.The Collector of Chennai,
Rajaji Salai, Chennai- 600 001.
- 2.The District Revenue Officer,
Singaravelar Maligai Rajaji Salai,
Chennai- 600 001.
- 3.The Revenue Divisional Officer,
Anna Nagar SH 112 Gandhi Nagar,
Anna Nagar West Extension,
Chennai- 600 001.
- 4.The Tahsildar,
Maduravoyal Taluk, Chennai- 600 095
5. The Sub Registrar,
Virugambakkam.
47/5 Arcot Road, Udyamam Colony,
Lambert Nagar, Virugambakkam
Chennai- 600 083.
6. Manickavasagam,
7. Bakthavatchalam,
8. V.R. Ravichandran



9. P. Selvakumar,

10. P. Sakthivel,

11. W. Joyson Fernando,

12. W. Thomson Fernando,

13. W. Nelson Fernando,

14. M. Kavitha

... Respondents

(R6 to R14 have been impleaded as per Court order dated 07.08.2019 in W.M.P.No.21486 of 2019 in W.P. No.13150 of 2019 by PDAJ.

PRAYER: This Petition is filed under Article 226 of the Constitution of India, praying for the issue a Writ of Mandamus, directing the 1st Respondent to dispose of the representations dated 11.04.2018 and 07.01.2019 filed by the Petitioner within a time frame to be fixed by this Hon'ble Court and pass orders accordingly.

For Petitioner :: Mr. Wilson Topaz
(For A.S. Kailasam and Associates)

For Respondents 1 to 5 :: Mr. K.M.D. Muhilan
(Government Advocate)

For Respondents 6 to 14:: Mrs. G. Devi (Senior Advocate)

ORDER

The relief sought for in this writ petition is for a direction to the 1st Respondent to dispose of the representations dated 11.04.2018 and 07.01.2019 filed by the Petitioner herein within a time frame to be fixed by this Court and pass orders accordingly.

2 The learned counsel for the petitioner would submit that the petitioner is a Public Religious Temple under the supervision of Tamil Nadu H.R. & C.E. Department, governed by the Tamil Nadu H.R. & C.E. Act, 1959. During various rulers, several



lands and properties were endowed to the said Temple. The Petitioner is a Temple dating back to the 13th Century A.D. built during of reign of Vijaya Kanda Gopala Cholan. The Petitioner owns large extent of lands including land in Survey No.26/2, 28/2A and 8 measuring 22 ares, 37 ares and 1.27 acres respectively, in Maduravoyal Village among other properties. In the year 1875, as per the O.S.R Settlement Register, the land in S.No. 26/2 was described as Nandavanam (Flower Garden), measuring 22 Ares, situate in South Mada Street, Maduravoyal Village. Even during 1984, in the 'A' Register prepared by the Government, this land is described as belonging to A/m. Vara Siddhi Vinaya Marga Sahaya Eswarar Karunakara Perumal and Other Temples and Patta No. 47 was also given in the name of Marga Sahaya Eswarar and Vara Siddhi Vinayakar and Karunakara Perumal Temple and other Temples, situate in South Mada Street, Maduravoyal Village. Subsequently, as per the records of Village Administrative Officer, Maduravoyal, as per Patta No 47, the land situate in Survey No. 26/2, belongs to the Petitioner and every year, the Chitta and Adangal is issued in the name of the Temple only. As per the order of the Assistant Commissioner, Urban Land Tax, Poonamallee Circle, in Na Ka No. 897/2000/P/Va. Ko. No. 21/1401 dated 07.11.2005, as per Form 5-G, the said Nandavanam was assessed to Urban Land Tax as belonging to the A/m. Marga Sahaya Eswarar Vara Siddhi Vinayakar and Karunakara Perumal Temple and other Temples, thereby evidencing the ownership, right and title of the Petitioner to the land in S. No.26/2

3. It has been further submitted that in respect of lands in S. Nos. 28/2A and 8, the Revenue records with specific reference to the "A" Register, stood in the name of the Petitioner Temple and Chitta and Adangal for the lands in S. Nos: 28/2A and 8 has been issued to and reflected the name of the Petitioner Temple. Further, in respect of the lands in S. Nos. 28/2A and 8 also, the Asst. Commissioner, Urban Land Tax assessed the same in the name of the Petitioner Temple thereby evidencing the right, title and ownership of the Petitioner. The 1.74.5 hectares belonging to the Temple in Survey No. 28/2A, an extent of 137.5 hectares was acquired by the National Highways Authority of India, vide proceedings of Special District Revenue Officer, NHAI, R.C. No. 134 of 2006/A/TVR dated 16.11.2006, for the purpose of laying Ring Road at Maduravoyal, for a valuable consideration, which leaves a residual balance of 37 ares in the hands of the Petitioner herein. In this regard, the petitioner



has received the consideration for the said extent of land acquired by the NHAI and thus the petitioner is the owner of the entire balance extent of land. Originally, Maduravoyal village fell under Ambattur Taluk in which all land records came to be computerized later on. Various persons seem to have applied to the 4th Respondent for grant of Patta and records were manipulated to show as if the lands were fragmented and were sold in smaller lots to many persons. The Survey No. 26/2 was subdivided and Patta was erroneously issued in the names of (a) Narayanan, (b) Vinayagam, (c) Sankar (d) Pachaiyappan and (e) Ravaindran, all being sons of Ponnu Ranga Naicker. During the process of computerization of various land records, the lands falling under Survey No. 28/2A & 8, Patta was erroneously issued in the names of (a) Murugappa Naicker, (b) Jayarama Naicker. (c) Mari Naciker and (d) Nagasami Reddiar. Only during the year 2012, when the Temple verified the Patta particulars of the lands with the Ambattur Tahsildar, it was found that the Patta was issued in the above names. Initially, the lands were under jurisdiction of the Collector, Thiruvallur District and subsequently, came under the Collector, Chennai District. Further, initially, the land fell under the jurisdiction of Tahsildar, Ambattur Taluk and subsequently, due to amendment of jurisdiction of Revenue Department, the land came under the jurisdiction of Tahsildar, Maduravoyal Taluk, Chennai District. The Executive Officers in-charge of the Temple, had originally taken up the issue with the District Revenue Officer, Thiruvallur and Tahsildar, Ambattur Taluk, by letters dated 13.09.2012, 11.10.2012, and also with the Collector, Thiruvallur District, by letter dated 06.12.2017, to conduct an enquiry into the fraudulent transaction that led to issuance of patta to certain persons and requested for re-issue of Patta in the name of the Temple. When the jurisdiction of the lands came under the Tahsildar, Maduravoyal Taluk, as late as 2018, during the Public Grievance Day (Jama Bandi) conducted by the 3rd Respondent, the Petitioner Temple, on 11.04.2018, took up the issue of encroachment of said extent of lands by certain persons and also cancellation of the pattas in their names and to re-issue patta in the name of the Temple. The same was also acknowledged by the R.D.O. vide Receipt No.2018/9005/01/323357/0503 dated 03.05.2018.

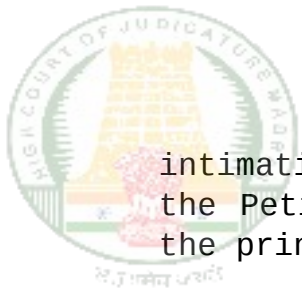
4. The learned counsel for the petitioner would further submit that the following are the details of Patta issued without prior notice to the HR. & C.E. Department and also the Temple, by



sub-division of the Patta vide Na Ka No. TK.BA/304/1422 dated 03.11.2014 .

S.No	Old Survey No.	Sub-divided New survey no	New Patta No.	Extent (ares)	Name of new patta holder
1	26/2	26/2 26/2/A1	47	0.12.09	P. Narayanan, P.Vinayagam, P.Sankar, P.Pachaiyappan. P. Ravindran
2	26/2	26/2/B	6658	0.1.00	R. Ravichandran Naidu
3	26/2	26/2/C	6659	0.1.70	R. Bhaktavatsala Naidu
4	26/2	26/2/D	6660	0.0.60	R. Ravichandran Naidu & R. Bhaktavatsala Naidu
5	26/2	26/2/E	6661	0.1.40	V. Kavitha
6	26/2	26/2/F	6662	0.1.00	P. Selva Kumar & P.Sakthivel
7	26/2	26/2/G	6663	0.0.20	V. Kavitha, P.Selva Kumar and P. Sakthivel
8	26/2	26/2/H	6664	0.2.00	P. Manickavasagam
9	28	28/2A	48	37 ares	Murugappa Naicker, Jayarama Naicker & Mari Naicker
10	8	8	40	1.27 Acres	Nagasami Reddiar

Initially, the land fell under the jurisdiction of Tahsildar, Ambattur Taluk, subsequently, the land came under the jurisdiction of Tahsildar, Maduravoyal Taluk, the 4th Respondent herein, who had issued Patta in the names of the aforesaid persons for the said extent of 22 Ares of land standing in the name of the Temple as late as 2005, but without any notice or



intimation to the Temple. This change in Patta without notice to the Petitioner Temple is not only illegal but also violative of the principles of natural justice.

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5. The learned counsel for the petitioner would further submit that such Patta was issued without any prior notice or opportunity to the Tamil Nadu H.R. & C.E. Department and the Temple in whose name the lands stand as per Government records dating back to 19th Century and thus playing a fraud on the Petitioner Temple. The various letters and representations sent to the Collector, Thiruvallur District and the Tahsildar, Ambattur and Tahsildar, Maduravoyal, and Collector of Chennai, all these years, are still kept pending and no action has been taken on them till date. The Temple has also not received any replies for such representations till date. Since the efforts of the Temple to get the pattas cancelled did not yield result, the Temple applied for Encumbrance Certificates for those extents, which showed that the said lands were thereafter sold to third parties by the Patta Holders, based on the fraudulent Patta. The following are the particulars of the various fraudulent transactions which took place in respect of the lands after the change of patta in the names of certain persons. Documents registered with S.R.O. Virugambakkam-Village Maduravoyal:

S.No	Old Survey No.	Extent (Sq. Ft.)	Executant	Claimant
1	1378/1986	1320	David jayaraj	V.S. Krishnamurthy
2	1651/1993	2244	B. Elumalai	Jayanthi
3	1652/1993	2244	M. Kesavan	B. Elumalai
4	1306/1994	2244	B. Elumalai	Thulasi Mala
5	1601/1998	1540	Chennai Metropolitan Transport Corporation Ltd.	B.R. Jayaraman



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S.No	Old Survey No.	Extent (Sq. Ft.)	Executant	Claimant
6	3580/1998	2244	Jayanthi	P. Elumalai
7	3581/1998	2244	Thulasi Mala	P. Elumalai
8	3074/2002	2419	V.Purushothaman, P.Kousalya	Chennai Repatriates Co-Op. & Development Bank Ltd.
9	6546/2010	1215	V. Ramakrishnan Naidu, Kasthuri, Sasikala, Mohana & Mahalakshmi.	V.Ravichandra Naidu
10	6547/2010	1215	V. Ramakrishnan Naidu, Kasthuri, Sasikala, & Mohana	R. Bhakthavatsalam Naidu
11	6548/2010	2160	Sakunthala Ammal	Petha Naidu
12	6658/2010	1215	Kasthuri, Sasikala, Mohana, Mahalakshmi & V. Ramakrishnan Naidu	R. Purushothaman Naidu
13	2453/2011	1215	R. Purushothaman Naidu	R. Bhakthavatsalam



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S.No	Old Survey No.	Extent (Sq. Ft.)	Executant	Claimant
14	5313/2011	1500	V.Ramakrishna Naidu, Kasthuri, Sasikala, Mohana, Mahalakshmi	R. Bhakthavatsalam Naidu
15	5915/2011	1520	Ponmurugan	M. Kavitha
16	5954/2011	1100	Chandra	P. Selvakumar & P. Sakthivel
17	588/2015	1215	R. Purushothaman	R. Bhakthavasalam & V.R.Ravichandran
18	782/2015	1822.5	R. Bhakthavasalam & V.R.Ravichandran	Cecon Foundations P. Ltd.
19	286/2015	900	D.Venkatesan	LIC Housing Finance Ltd.
20	2106/2018	604	S.Sivaprakash	Cecon Foundations P. Ltd. & Thameem Anzari
21	2107/2018	604	R. Bhathavatsalam & V.R. Ravichandran	S. Sivaprakash
22	2307/2018	614.5	H.Santhi	Cecon Foundations P. Ltd.
23	2308/2018	614.5	R. Bhathavatsalam & V.R. Ravichandran	H. Santhi
24	2479/2018	614.5	H. Santhi & A.R. Fila Casa	Housing Development Finance Co.



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S.No	Old Survey No.	Extent (Sq. Ft.)	Executant	Claimant
25	2522/2018	604	G. Hariharan	Cecon Foundations P. Ltd.
26	2323/2018	604	R. Bhathavatsalam & V.R. Ravichandran	G. Hariharan
27	2729/2018	604	G. Hariharan & A.R. Fila Casa	HDFC Ltd.
28	3173/2018	604	S.Sivaprakash & A.R. Fila Casa	Shinhan Bank

These fraudulent documents pertaining to the subject lands which is owned by the Temple, have been created, showing that transactions were entered into by third parties to show that lands were purchased from out of their personal funds. The land originally is Nandavanam on which these persons have encroached and created false, fictitious and fraudulent documents claiming ownership rights and consequently obtained fraudulent Pattas in their name and therefore such Pattas have to be cancelled. Hence, the 5th Respondent is made a party to the Writ Petition to prevent any registration of such fraudulent transactions in future. Finally, the Petitioner by letters dated 11.04.2018 and 07.01.2019 addressed to the Respondents and has brought to their notice about the issue of Patta in the names of certain persons based on false documents and prayed to cancel the same, in spite of which there is no action forthcoming from the authorities. The Respondents can have no objection to the same since the Petitioner was not given notice or heard before Patta was issued by the 4th Respondent and documents registered the names of third parties by the 5th Respondent which is against the principles of natural justice. Hence, early disposal of the matter by the 1 Respondent would benefit all parties concerned since they would be able to take a definite stand after a decision in respect of the validity of the Patta granted. Hence, the petitioner is left with no other alternate, speedy and equally efficacious remedy than approaching this Court by invoking its jurisdiction under Article 226 of the Constitution of India seeking to issue a Writ



of Mandamus, directing the 1st Respondent to dispose of the representations dated 11.04.2018 and 07.01.2019 sent by the Petitioner herein within a time frame to be fixed by this Court and pass orders accordingly. Hence this Writ Petition.

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6. The learned Government Advocate appearing for the respondents 1 to 5 would submit that even though the said property is belonged to the petitioner herein, the third parties are claiming the same after mutation of Patta. Hence, the respondents 1 to 5 may be directed to consider the representations made by the petitioner herein within a time frame as fixed by this Court.

7. The learned senior counsel for the respondents 6 to 14 would submit that they are not innocent purchasers and the documents would show that the survey number is different. Hence, it has to be verified by the authorities concerned by considering the representation given by the petitioner herein. The petitioner is not a purchaser of the land belonging to the temple and the purchasers cannot be penalised for the said purchase of the property.

8. It has been further submitted by the learned Senior Counsel that the 6th to 14th respondents' predecessors are in possession and enjoyment of the property continuously for 54 years ie. more than half century. At the time of the sub-division, their land was changed from S.No.26/1 to 26/2. Prior to 1984, the writ petitioner has no document to show the entry in the temple name. Even during the period of "A" Registry of 1984, their land were reflected only in S.No.26/1 and not 26/2 and that "A" registry itself shows that S.No.26/1 as Grama Natham. Likewise the other documents relied on by the petitioner was only at S.No.26/2 when their land was shown as in S.No.26/1. Hence at no point of time, the writ petitioner claimed possession and enjoyment of their property in S.No.26/1. Only during Sub-Division, after 2010, their lands by mistake was noted in S.No.26/2 instead of 26/1. Taking advantage of the situation, the writ petitioner has moved the authorities alleging that the respondents 6 to 14 were a new encroacher. In Chitta, Adangal and A Registrar, the name of the respondents 6 to 14 were entered and they have constructed their house with MMDA approval. All of a sudden, the writ petitioner has started to claim with unwarranted allegations as the respondents 6 to 14 are encroacher and



misusing the temple. Hence, the Revenue Authorities may be directed to Re-survey S.No.26, Maduravoyal.

8. Heard the learned counsel for the petitioner, the learned Government Advocate for the respondents 1 to 5 and the learned senior Counsel for the respondents 6 to 14 as well as perused the material available on records.

9. Having considered the facts and circumstances of the case and submissions made by the learned counsel for both sides, since all aspects have to be considered by the authorities concerned, the respondents 1 to 4 are hereby directed to consider the representations dated 11.04.2018 and 07.01.2019 filed by the petitioner temple by giving opportunity of personal hearing to the petitioner temple as well as the respondents 6 to 14 and pass appropriate orders on merits in accordance with law after considering the related documents produced by them within a period of five weeks from the date of receipt of copy of this order.

10. The Writ petition is disposed of accordingly. Consequently, connected miscellaneous petition is closed if any. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

Lbm

To:

1.The Collector of Chennai,
Rajaji Salai, Chennai- 600 001.

2.The District Revenue Officer,
Singaravelar Maligai Rajaji Salai,
Chennai- 600 001.

3.The Revenue Divisional Officer,
Anna Nagar SH 112 Gandhi Nagar,



Anna Nagar West Extension,
Chennai- 600 001.

4.The Tahsildar,
Maduravoyal Taluk, Chennai- 600 095

5. The Sub Registrar,
Virugambakkam.
47/5 Arcot Road, Udyamam Colony,
Lambert Nagar, Virugambakkam
Chennai- 600 083.

+9cc to M/s.V.Raghupathi, Advocate, S.R.No.46360
+1cc to the Government Pleader, S.R.No.47233

W.P. No.13150 of 2019

CP(CO)
SB(01/11/2021)