



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2021

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.24781 of 2016

and

W.M.P.Nos.21184 & 21185 of 2016 and 24525 & 24526 of 2017

U.Azgar Sheriff

... Petitioner

Vs

1. The District Collector,  
Kanchipuram District,  
Kanchipuram.
2. The District Revenue Officer,  
Kanchipuram District,  
Kanchipuram.
3. The Revenue Divisional Officer,  
Chengalpattu.
4. The Tahsildar,  
Chengalpattu.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to call for the records relating to Na.Ka.No.12596 of 2015/N4, dated 09.06.2016 of the second respondent and consequential order passed in Na.Ka.No.8925/1994/AA1 dated 02.07.2016 of the fourth respondent, quash the same and direct the respondents to issue patta in favour of the petitioner herein by the issue of Writ of Certiorarified Mandamus. (prayer amended vide Court order dated 20.11.2018, made in W.M.P.No.30688 of 2017 in W.P.No.24781 of 2016).

For Petitioner : Mr.R.Thiyagarajan  
Senior Counsel  
for Mr.V.Srinivasa Babu

For Respondents : Mr.Jeeva Giritharan  
Additional Government Pleader

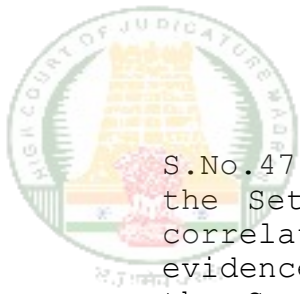


## ORDER

This writ petition is filed to issue a Writ of Certiorarified Mandamus, to call for the records relating to Na.Ka.No.12596 of 2015/N4, dated 09.06.2016 of the second respondent and consequential order passed in Na.Ka.No.8925/1994/AA1 dated 02.07.2016 of the fourth respondent, quash the same and direct the respondents to issue patta in favour of the petitioner herein.

2. The case of the petitioner is that the land comprised in Town Survey No.47, Old Survey No.26/B, ad-measuring 0.71 cents, situated at Chengalpattu, was a personal and hereditary Inam granted in T.D.No.992 to one Abdullah Fakir, who is ancestor of the petitioner herein. While that being so, there was some attempts of interventions by the local Revenue Officials, including the respondents herein. Therefore, the petitioner's father filed a suit for declaration of title and permanent injunction in respect of the subject property in O.S.No.293 of 1981 on the file of the District Munsif Court, Chengalpattu. In the above said suit, the respondents are arrayed as defendants. The said suit was decreed in favour of his father by the judgment and decree dated 11.09.1996. Aggrieved by the same, the respondents herein preferred an appeal suit in A.S.No.40 of 1997 on the file of the Additional Sub Court, Chengalpattu. The said appeal was also dismissed by the judgment and decree dated 28.02.2003. Again, aggrieved by the same, the respondents herein filed a Second Appeal before this Court in S.A.No.2135 of 2004 and the same was also dismissed by the judgment and decree dated 27.11.2008. The specific stand of the respondents that the suit property is a poramboke land and vested with the Government. Further stand that the Inam of Old S.No.26/B, is not correlated with the New Town Survey No.47. They also took a stand that remaining Village site poramboke has been sub-divided as S.No.26/1B2. S.No.26/1B2A is correlated to T.S.No.47 to an extent of 71 cents and it is Government poramboke. The said stand was rejected by the trial Court and concluded that the subject property to an extent of 71 cents in T.D.No.992 is in possession and enjoyment of the petitioner's father. The petitioner's father has proved his case and the suit is decreed as prayed for.

3. The Appellate Court, while dismissing the Appeal Suit and concluded that the suit property was a personal Inam granted to the said Abdulla Fakir. The first respondent herein has spoken that the suit property was in enjoyment of the Inamdars beneficiary till the Inam was abolished under Act 20/63. Ex.A.4, the old S.No.26/B is shown as belonging to said Abdulla Fakir and it is admitted by D.W.1 that the old S.No.26/B to suit



S.No.47 and both Survey numbers are one and the same. Ex.A.6, the Settlement Register which will prove old S.No.26/B is now correlated to suit S.No.47 ad-measuring 0.71 cents as per the evidence given by D.W.1. That apart, this Court while dismissing the Second Appeal observed that when once it was held so, the claim of the appellants that the suit property is a promboke land and vested with the Government cannot be sustained and the documents filed on their behalf under Exs.B1 to B6 would not any way improve their case. In the resettlement register, particular piece of land has been described as a poramboke will not be itself establish the title of the Government to the suit property. A perusal of Ex.A.29, it would clearly reveal that the inam of Old S.No.26/B, New S.No.47, T.D.No.992, GST Road, Chengalpattu Town and Taluk, was in favour of the predecessor of the plaintiff, namely, Abdulla Fakir and therefore, merely because the settlement proceedings, the suit property was wrongly classified as poramboke, the Government cannot take advantage of the same and claimed that it is poramboke land depriving the right of the petitioner's father.

4. Heard Mr.R.Thiyagarajan, learned Senior Counsel appearing for the petitioner and Mr.Jeeva Giritharan, learned Additional Government Pleader appearing for the respondents.

5. On a perusal of the impugned order, it reveals that again the Revenue Officials had taken the same stand that the subject land is a poramboke land and old S.No.26/B is not correlated with New T.S.No.47. The fourth respondent has sought some clarification and guidance in the patta dispute of the petitioner in respect of the property comprised in T.S.No.47 of Chengalpattu in Old.S.No.26/B, the first respondent have examined the records i.e., Adangal, 1911 R.S.R and other connected Revenue Records. On a perusal of the same, it is observed that the petitioner seeks patta to the land comprised in S.No.26/B for which New T.S.Nos.95, 96, 100/1, 100/2, 100/3 and 106 have been assigned and patta been issued to some other persons, whereas T.S.No.47 is assigned to the old S.Nos.17, 18 to 23 and classified as "Government Pormboke Land". Therefore, the petitioner did not even have possession of the subject land. In pursuant to the decree passed in the suit filed by the petitioner's father in O.S.No.293 of 1981, the petitioner filed an Execution Petition to appoint an Advocate Commissioner to identify and demarcate the subject property with the help of Surveyor. In the Execution Petition, the Advocate Commissioner was appointed by the learned District Munsif, Chengalpattu in E.A.No.51 of 2015 in E.P.No.41 of 2013 in O.S.No.293 of 1981 and the Advocate Commissioner measured the suit property with the help of town surveyor and filed a report.

6. The report of the said Advocate Commissioner, it



reveals that the Town Surveyor identified the properties comprised in T.S.Nos.45, 46, 48, GST Road and Municipal Road. The Town Surveyor measured the entire area and identified the four boundaries of it. The entire property is bounded on the North by T.S.Nos.44, 45 and 46. The Town Survey Nos.44 and 45 are burial ground/cemetery and it is demarcated by a huge compound wall and Town Survey No.46 is a Mohammedan Darga. Northern area of T.S.No.47 measured 79.2 meters (260 feet). The land comprised in T.S.No.47 is bounded on the East by Municipal Road. On the Eastern side T.S.No.47 measured 37.5 meters (123 feet). T.S.No.47 is demarcated by a compound wall on the South of it by the Town Police Station and on the Southern side the property measured 44 meters (144 feet). It is bounded on the West by G.S.T.Road and on the Western side T.S.No.47 measured 80.6 meters (264 ½ feet). The property comprised in T.S.No.47 ad-measuring 0.71 cents within the above mentioned boundaries.

7. It is further revealed in the said report that there were no noticeable structures lying in T.S.No.47 and remained vacant. The petitioner had planted stones on the Eastern boundary as a measure of demarcating his property. The Advocate Commissioner report annexed with rough sketch in respect of the property comprised in T.S.No.47 old S.No.26/B. The Town Surveyor also submitted his report dated 25.09.2020 and accordingly, he identified the same and surveyed with boundaries. The FMB is also correlated with the plan produced by the Advocate Commissioner. Without considering these facts, the second respondent passed the impugned order dated 09.06.2016 and consequent to the same, the fourth respondent passed the order dated 02.07.2016, thereby rejected the request made by the petitioner for issuance of patta.

8. In view of the above discussion, both the impugned orders are quashed. The fourth respondent is directed to issue patta to the petitioner in respect of the property comprised in Old Survey No.26/B, New T.S.No.47, within a period of four weeks from the date of receipt of a copy of this order.

9. In the result, this Writ Petition is allowed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-  
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,  
Kanchipuram District,  
Kanchipuram.
2. The District Revenue Officer,  
Kanchipuram District,  
Kanchipuram.
3. The Revenue Divisional Officer,  
Chengalpattu.
4. The Tahsildar,  
Chengalpattu.

+3ccs to M/s.Srinivasa Babu, Advocate, S.R.No.68033

+1cc to the Government Pleader, S.R.No.58342

W.P.No.24781 of 2016

AD(CO)  
SU(04/01/2022)