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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.6436 of 2015

Pushpa Sundaram

... Petitioner

Vs

1.The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai.

2.The Commissioner,
Ambattur Municipality,
Ambattur, Chennai.

3.The Assistant Engineer, Zone - 7,
Mogappair East,
Corporation of Chennai,
Chennai - 37.

4.The Tahsildhar,
Ambattur Taluk,
Ambattur, Chennai.

...Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the respondents to give repossession of the petitioner's lands in Survey No.396/19 measuring about 1200 Sq.ft. in Plot No.156-A and another part of the land measuring 1200 sq.ft in Plot No.130-A totally measuring 2400 sq.ft

(Prayer amended as per order dated 27.01.2020 made in W.M.P.No.33323/2019 in W.P.No.6436/2015)

For Petitioner :Mr.G.Karthikeyan

For Respondents :M/s.P.T.Ramadevi

[For R1 to R3]

Mr.C.Sathish

Government Advocate

[For R4]



O R D E R

The amended relief sought for in the present writ petition is to direct the respondents to give repossession of the petitioner's lands in Survey No.396/19 measuring about 1200 Sq.ft. in Plot No.156-A and another part of the land measuring 1200 sq.ft in Plot No.130-A totally measuring 2400 sq.ft

2. The petitioner states that she purchase a plot measuring 1200 sq.ft. in Plot No.156-A and another 1200 sq.ft. in Plot No.130-A in Survey No.396, Mogappair Village, Saidapet Taluk, then Chengalept MGR District and presently, Thiruvallur District from M/s.Golden Bricks & Tiles Compnay, a registered Partnership Firm, vide Document No.2/1996, dated 03.01.1996.

3. The learned counsel for the petitioner made a submission that the petitioner is in possession of the relevant documents including the sale deed excluded by her vendor and the parent documents. Patta was granted in favour of the petitioner and necessary name change had been already effected. The petitioner was in peaceful possession and enjoyment of the property and the respondents by infringing the right of the petitioner, interfered and demolished a portion of the house constructed by the petitioner for the purpose of expansion of road in that locality.

4. The contention of the writ petitioner is that they are the bonafide purchaser of the property and on verification of documents, the petitioner purchased the property and thus, the right of the petitioner is to be protected.

5. With reference to the counter affidavit, the learned counsel for the petitioner reiterated that at no point of time, the authorities raised any such ground by stating that a portion of the land is classified as 'Poromboke'. Contrarily, all of a sudden, they entered into the property, demolished the building and took possession of the same. Thus, the petitioner is entitled for the relief as such sought for in the writ petition.

6. The learned counsel for the petitioner drew the attention of this Court with reference to the documents, which all are in documents and sale deeds and this Court is of the considered opinion that those documents deserve an elaborate adjudication with reference to the classification or the origin of the property, which cannot be undertaken by the High Court in a writ proceedings under Article 226 of the Constitution of



7. Civil rights in respect of immovable property are to be adjudicated before the competent Civil Court of Law and merely based on the affidavit and the Xerox copies of such documents, the High Court cannot form an opinion or confer any title or ownership in respect of an immovable property. Such an adjudication undoubtedly would result in commission of error or otherwise in respect of factual findings, which is not desirable. Every such documents require scrutinisation, examination regarding genuinity as well as the evidences in support of those documents including oral evidences. Thus, writ proceedings under Article 226 would not be an appropriate one for the purpose of adjudication of such Civil natured disputes.

8. The counter affidavit filed by the 4th respondent-Tahsildar provides information about the property as per the Revenue records in Paragraphs 9 and 11, which reads as under:

"9) It is respectfully submitted that the survey taken up in respect of the property reported to have been purchased by the petitioner herein, shows that out the property claimed by the petitioner an extent of 178 Sq.metre is comprised in T.S.No.10 and another extent of 58 Sq.metres of land is comprised in T.S.No.10C of Block No.75 of Ward "H" of Ambattur Town. The said lands stand classified as Road Poromboke. The Land Records in respect of these two lands are as furnished below:

Village	Ambattur	Ambattur
Block No.	75	75
Ward No.	H	H
T.S.No.	10	10C
Old S.No.	396 P	395
Classification	Circar Poromboke	Circar Poromboke
Extent	Hec.Ares.Sq.metres	Hec.Ares.Sq.metres s 00 09 50.0
How the holding is utilised?	Mugappair to Estate Road	ROAD

11) As regards the averments of the petitioner set out in para 2 of the affidavit, it is respectfully submitted that though the petitioner claims that the property purchased by her is comprised in S.No.396 of



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Ambattur Village, during inspection of the field it was found that the major portion of the land (178 Sq.metres) is comprised in Old S.No.395 only which vests with Greater Chennai Corporation and corresponds to T.S.No.10 of Block No.75 of Ward "H" of Ambattur Town. The remaining portion of 50 Sq.metres is also comprised in OldS.No.395 only which vests with Greater Chennai Corporation and corresponds to T.S.No.10C of Block No.75 of Ward "H" of Ambattur Town. As such, the entire extent purchased by the petitioner falls on land classified as Circar Poromboke and vests with Greater Chennai Corporation."

9. Perusal of the counter affidavit reveals that the subject property is classified as 'Circar Poromboke' and therefore, the petitioner is not entitled for any relief and the respondents have contended that they have removed the encroachments and thus, there is no infirmity or otherwise.

10. Admittedly, the subject property is now falling within the territorial jurisdiction of Chennai Corporation and the portion of the property was taken for the purpose of Road expansion project. When the authorities have identified the subject property as 'Road Poromboke' as per the Revenue records and the classification found therein and initiated action, removed the encroachments and implemented the public Schemes, the remedy for the aggrieved person would be before the Competent Forum for adjudication of issues. Even presuming that any violations are committed by the authorities in the matter of identifying Poromboke Land or not, it is be adjudicated and if at all, the petitioner is entitled for any relief, it is to be granted by the competent Court of Law. However, this Court cannot form an opinion in respect of such issues, more specifically, when the authorities found that subject property is classified as 'Road Poromboke' and they have removed the encroachments for the purpose of implementing the Public Schemes.

11. As far as the actions of the respondents are concerned, once the authorities formed an opinion on verification of the Revenue records and implemented the order, the same need not be interfered with merely on the ground that the petitioner claims ownership or otherwise in respect of the property. Even in such circumstances, it is for the person, who is claiming, has to approach the competent Court for appropriate remedy including grant of compensation, if she is otherwise entitled.



12. In view of the facts and circumstances, the relief as such sought for in the present writ petition is to direct the respondents to give repossession to the petitioner in respect of the subject property deserves no merit consideration.

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13. With these observations, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

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To

- 1.The Commissioner,
Corporation of Chennai,
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- 2.The Commissioner,
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Ambattur, Chennai.

+1cc to Mr.G.Karthikeyan, Advocate SR.No.64773
+1cc to M/s.P.T.Ramadevi, Advocate SR.No.64902
+1cc to the Government Pleader, SR.No.65861

W.P.No. 6436 of 2015

GPL(CO)
CB(27/12/2021)