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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2021

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.13247 of 2021

M/s.Fabulous Construction Pvt. Ltd.,
Rep. by its Director M.Sugumaran
having office at
No.1/55, Gramini Street,
Pattipulam Village and Post (ECR)
Thiruporur Taluk,
Kancheepuram District - 603 104.

.... Petitioner

Vs

1. The District Collector,
Chennai District,
Singaravelar Maligai,
Chennai - 600 001.
2. The Assistant Director (Land Survey),
Singaravelar Maligai,
Chennai - 600 001.
3. The Tahsildar,
Guindy Taluk,
Chennai - 600 032.

.... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the third respondent to dispose of the representation dated 11.11.2019 submitted to survey and fixing of boundaries in respect of the land comprised in survey No.12, now re-classified as TS 12/1 to 12/14, Block No.1 of Adayar Village, Guindy Taluk admeasuring an extent of 2 acres 30 cents and transfer the patta in the name of the petitioner.

For Petitioner : Mr.R.Thiagarajan

For Respondents : Mr.P.Kumaresan
Additional Advocate General
Assisted by
Mr.Yogesh Kannadasan,
Special Government Pleader



ORDER

This Writ Petition has been filed for issuance of Writ of Mandamus, directing the third respondent to dispose the representation of the petitioner dated 11.11.2019 to survey and fixing of boundaries in respect of the property comprised in survey No.12, now re-classified as TS 12/1 to 12/14, Block No.1 admeasuring to an extent of 2 acres 30 cents situated at Adayar Village, Guindy Taluk and transfer the patta in the name of the petitioner.

2. Heard, Mr.R.Thiagarajan, learned counsel appearing for the petitioner and Mr.P.Kumaresan, learned Additional Advocate General appearing for the respondents.

3. The case of the petitioner is that the land comprised in survey No.12, re-classified as TS 12/1 to 12/14, Block No.1, Adayar Village, Guindy Taluk, admeasuring to an extent of 2 acres 30 cents, owned by him. The said land was purchased by registered sale deeds dated 24.05.2010 vide document No.1030 of 2010, dated 07.09.2011, vide document No.367 of 2011, dated 25.11.2011 vide document No.368 of 2012 and dated 10.02.2012 vide document No.369 of 2012. After purchase of the subject property, the petitioner submitted an application for transfer of patta. The said property is a river bed land. While being so, in the process of desilting Adyar River, without proper by earmarking and identifying the subject land in the desilting process, boundaries has been eroded.

4. Therefore, the petitioner submitted a representation and it has not been considered. Hence, the petitioner filed a writ petition in W.P.No.18717 of 2013 before this Court and this Court, by an order dated 21.08.2013, directed the third respondent to consider the representation and pass orders within a period of three months. Thereafter, the petitioner also filed a suit in O.S.Nos. 6219, 6374, 6539 and 6540 of 2012 before the City Civil Court, Chennai, for the relief of permanent injunction. The said suit was decreed in their favour. Even then the Revenue Officials continued to threaten the petitioner and did work of desilting and removed sand from the boundaries of the petitioner's property. Therefore, the petitioner submitted a detailed representation on 11.11.2019 to survey and fix the boundaries in respect of subject property before the respondents.

5. The learned Additional Advocate General appearing for the respondents and the third respondent filed a counter stating that the subject land admeasuring to an extent of 41 grounds and 917 sq.ft situated in T.S.Nos.12/1 to 12/14 of Block No.1 of



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Adayar Village. It stood registered in the names of Lavan Mudaliar and others as per the Re-settlement Register. In the year 1997, Tvl. N.Kupusamy, N.Govindan, N.Alwar and N.Adimoolam had submitted a copy of the document dated 03.04.1972 registered vide document No.628 of 1972 and filed writ petition in W.P.No.13247 of 2021 requested for sub-division and separately register in their favour. Accordingly, it was divided into 14 pieces and sub division has been effected in the name of the said persons. Thereafter, the legal heirs of one Kupusamy appointed one K.Nadakumar as their Power of Attorney to deal with the properties comprised in TS Nos.12/3, 12/5, 12/13 and 12/14. Likewise, the legal heirs of the other registered holder Azhvar executed another Power of Attorney and appointed the said K.Nandakumar to deal with the properties comprised in TS.Nos.12/5, 12/8, 12/10 and 12/13. Another registered holder N.Adimoolam also appointed the same person to deal with the property comprised in RS No.122, 12/5, 12/9, 12/11 & 12/13.

6. While being so, in the year 2009, they filed writ petition in W.P.No.23973 of 2009, alleging that the Corporation officials had entered into to the property with earth movers and threatened to take over possession of the patta lands. However, the said writ petition was closed with the observation that "the petitioners claim to be the owners of the remedy is to seek a declaration and injunction before the Civil Court". In turn, the registered holders sold out the subject properties in favour of the petitioner by way of a registered sale deeds vide document Nos.1030 of 2010, 367 of 2012 and 368 of 2012.

7. On the strength of the sale deeds, the petitioner requested for transfer of patta in respect of property comprised in TS.Nos.12/1 to 12/14 to an extent of 1.50 acres. In the meanwhile, the petitioner also filed a suit in O.S.Nos. 6219, 6374, 6539 and 6540 of 2012 for permanent injunction restraining the revenue officials from interfering with the peaceful possession either by removing the sand and causing erosion to the boundaries of the subject property. The suit was disposed of on 28.11.2014 with a direction to the fourth respondent to dispose of the petition within eight weeks. It is further revealed that the subject land is in the midst of Adayar River and it does not have any approach road. The field is not in existence as of now. Further, it is observed by the Public Works Department that the formation of the bund of the said land would have submerged in the recent rains. The subject land is not in possession and enjoyment of any individual including the petitioner. In fact, the request of the petitioner for grant of patta in respect of the subject property has already been rejected by an order dated 24.08.2013 with a liberty to the petitioner to file a revision before the Appellate Authority.



8. The fourth respondent also produced the original Town Survey Register before this Court, which reveals that originally the subject property was correlated to survey No.1. Subsequently, it was changed as survey No.12 and sub divided as 12/1 and 12/5. The entire property is classified as Adayar River. However, the representation of the petitioner dated 11.11.2019 is pending with the third respondent.

9. In view of the above observation, the third respondent is directed to consider the representation of the petitioner dated 11.11.2019, after giving an opportunity of hearing to the petitioner and pass orders on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.

10. With the above direction, the writ petition is disposed of . No costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Chennai District,
Singaravelar Maligai,
Chennai - 600 001.

2. The Assistant Director (Land Survey),
Singaravelar Maligai,
Chennai - 600 001.

3. The Tahsildar,
Guindy Taluk,
Chennai - 600 032.

+2ccs to M/s.R.Thiagarajan, Advocate, S.R.No.64904

+1cc to the Special Government Pleader, S.R.No.65343

W.P.No.13247 of 2021

RP(CO)
SU(23/12/2021)