

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2021

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.18075 of 2021

and

W.M.P.Nos.19308 and 19309 of 2021

C.Prabala Chandra Raj

Vs.

... Petitioner

1. The District Collector,
Cuddalore Collector Office,
Gundu Salai Road, Alpet,
Manjakuppam,
Cuddalore - 607001.
2. The Revenue Divisional Officer,
RDO Office,
Sub Jail Road,
Cuddalore - 607001.
3. The Tahsildar,
Taluk Office,
Cuddalore - 607001.
4. The Executive Engineer,
Public Works Department,
Vellar Vadinila Kottam,
Virudhachalam - 606001.
5. The Assistant Executive Engineer,
Public Works Department,
W.R.D Irrigation Section,
Nellikuppam Main Road,
Cuddalore - 607001.
6. The Commissioner,
Cuddalore Greater Municipality,
Bharathi Road, Cuddalore - 607001.
7. The Town Surveyor,
Greater Municipal Office,
Cuddalore - 607001.
8. Mr.G.Anadhababu
9. G.Rajan Babu

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 3 to cancel the patta illegally obtained by the 8th and 9th respondents for the land belonging to the Public Works Department, the 4th respondent, and petitioner's lease hold land situated at Cuddalore Town, Ward No.6, Block.8, comprised in T.S.No.208/1 admeasuring an extent of 10,819 Sq.ft, based on his representation dated 08.10.2020.

For Petitioner : Mrs.A.V.Bharathi

For R1 to R3, R6 & R7 : Mr.Yogesh Kannadasan
Government Advocate

ORDER

This Writ Petition has been filed to direct the respondents 1 to 3 to cancel the patta illegally obtained by the 8th and 9th respondents for the land belonging to the Public Works Department (Herein the 4th respondent) and petitioner's leasehold land situated at Cuddalore Town, Ward No.6, Block.8, comprised in T.S.No.208/1 admeasuring an extent of 10,819 Sq.ft, based on the petitioner's representation dated 08.10.2020.

2. The case of the petitioner is that he had purchased a land in S.No.208/2 measuring an extent of 3200 Sq.ft from the 8th respondent by way of Sale Deed dated 13.09.1993 registered as Document No.1411 of 1993 in the office of the Sub-Registrar, Cuddalore. Apart from that, he had also purchased some more portion of land in the same T.S.No.208/2 measuring an extent of 3072 Sq.ft from the 8th respondent by way of Sale Deed dated 30.07.1996 registered as Document No.1140 of 1996 in the office of the Sub-Registrar - III, Cuddalore. From the date of purchase, he is in possession and enjoyment of the same, and in the said property, he has been carrying on a furniture business for more than 20 years without any hindrance. The Public Works Department acquired the land by way of Award No.7/69 dated 22.03.1969 situated at Cuddalore Town, Ward No.6, Block No.8, comprised in T.S.No.208/1 measuring an extent of 10819 Sq.ft for the purpose of flood bank. Hence, the extent of land measuring 10,819 Sq.ft comprised in S.No.208/1 belongs to Public Works Department. The petitioner's property is comprised in S.No.208/2 measuring an extent of 6272 Sq.ft and is situated in the rear portion of the land belonging to the Public Works Department.

3. It is the further case of the petitioner that the land comprised in T.S.No.208/1 is located in the front portion of his property and the same belongs to Public Works Department. The

petitioner has legally obtained the same for lease to an extent of 1,200 Sq.ft for the purpose of using as pathway for accessing his property to carry on his furniture business from the 4th respondent (PWD) vide Letter No.330M/EVaA3/Ko.5/000 dated 07.06.2000. From the date of purchase, he has been enjoying the said pathway for more than 20 years without any hindrance. While so, the 8th and 9th respondents had obtained patta in their favour for the said land in an illegal manner. The 8th respondent in order to grab money from the petitioner, has been insisting and threatening him to purchase the land belonging to PWD claiming himself to be the owner of the property, since the said land is the only way to access his property and he is also trying to sell the property belonging to the 4th and 5th respondents (PWD) with a malafide intention. The petitioner had made several representations to the respondents 1 to 7 to cancel the patta illegally obtained by the 8th and 9th respondents. But all his efforts ended in vain. The 5th respondent has replied to his Letter No.634/Ko:53/2020/U.Cha.Po(K) dated 20.11.2020, stating that the land comprised in T.S.No.208/1 measuring an extent of about 10,819 Sq.ft belongs to Public Works Department and that if patta has been given to the 8th and 9th respondents for the land belonging to the PWD, appropriate action will be taken.

4. It is also the case of the petitioner that the petitioner in order to protect his interest over the pathway to his property, had given several representations to the respondent as well as the Hon'ble Chief Minister. While so, the 4th respondent has sent a reply to the Hon'ble Chief Minister vide Letter No.42MVB/EVaA1/Co3/2021 dated 02.02.2021, stating that if the patta is obtained by the 8th and 9th respondents for the land belonging to the 4th respondent, action will be taken for cancellation of patta. But, till now, the patta has not been cancelled by the respondents. On 18.07.2021, the 8th respondent came along with 25 goondas and illegally constructed a compound wall in the 4th and 5th respondent's property, blocking the way of the petitioner's property. The 4th respondent and petitioner tried to stop them, but the 25 goondas surrounded them and threatened with dire consequences. Hence, the petitioner lodged a police complaint. Only after the police intervention, the construction of compound wall was stopped at 75% of completion, leaving some way to the petitioner's property. The petitioner is running furniture business in the said place for the past 20 years, and due to the illegal intervention and construction by the 8th respondent, he is not able to run his business and this has put him into severe mental agony and financial crisis. He sent a representation dated 08.10.2020 to the 1st and 2nd respondents in this regard, but no reply has been received from them so far. Hence, he seeks for a direction to the respondents 1 to 3 to cancel the patta illegally obtained by the 8th and 9th respondents, based on his representation dated 08.10.2020.

5. The learned counsel appearing for the petitioner would submit that the 4th and 5th respondents are the absolute owners of the property in T.S.No.208/1 which is located in the front portion of the petitioner's property. Hence, the 8th and 9th respondents have no right to claim title over the said property and the patta granted to them for the said land should be cancelled immediately by the respondents 1 to 3. Further, the learned counsel for the petitioner would submit that the petitioner has already given several representations to the respondents 1 to 7 in this regard. But, till now, no action has been by them to cancel the patta illegally obtained by the 8th and 9th respondents.

6. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents, and perused the materials available on record.

7. When the matter was taken up for hearing on 31.08.2021, Mr.Yogesh Kannadasan, learned Government Advocate, has taken notice for the respondents R1 to R3, R6 and R7 and sought time to get instructions in this matter. Hence, this Court has posted the matter on 07.09.2021. Accordingly, the Learned Government Advocate has got instructions from the authorities concerned and produced a Letter dated 31.08.2021 in Na.Ka.Aa1/418/2021 before this Court today i.e. 07.09.2021 received from the Tahsildar, Cuddalore, wherein, it is found that the disputed property is belonged to the 4th and 5th respondents herein (PWD) and the 8th and 9th respondents have obtained patta for the said property in favour of them. It is also found in the said letter that based on the representation given by the petitioner for cancellation of patta granted to the 8th and 9th respondents herein, the 6th respondent (Cuddalore Municipality) has conducted an enquiry and sent a report to the 2nd respondent (Cuddalore Revenue Divisional Officer) for appropriate orders in the same.

8. The letter produced by the Learned Government Advocate is issued based on the report received from the 6th respondent (Cuddalore Municipality), and the learned counsel appearing for the petitioner would submit that, in the report itself, there are lot of discrepancies and no proper details have been furnished by the authorities concerned. Hence, it would be appropriate for this Court to direct the 2nd respondent (Cuddalore Revenue Divisional Officer) to consider the petitioner's representation, after conducting an enquiry and obtaining statement from the petitioner in person.

9. Taking into consideration the fact that the petitioner's representation is in consideration and the same is pending for investigation before the 2nd respondent Revenue Divisional Officer, Cuddalore, and also the submission made by the learned

counsel for the petitioner that no proper report has been submitted by the authorities concerned, this Court directs the 2nd respondent, Revenue Divisional Officer, Cuddalore, to consider the petitioner's representation and pass appropriate orders in accordance with law, within a period of four months from the date of receipt of a copy of this order, after affording an opportunity to the parties, namely, the petitioner, 4th and 5th respondents (PWD Officials) and 8th and 9th respondents, to put forth their defence in person. Till then, the disputed pathway of the property measuring to an extent of 1,200 Sq.ft shall be maintained as such and no disturbance should be caused to the petitioner.

10. Accordingly, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
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7. The Town Surveyor,
Greater Municipal Office,
Cuddalore - 607001.

+lcc to Mrs.A.V.Bharathi, Advocate, S.R.No.45317

+lcc to the Government Pleader, S.R.No.45893

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AK-II(CO)
HS(13/09/2021)