



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2021

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.19130 of 2021

S.Malliga

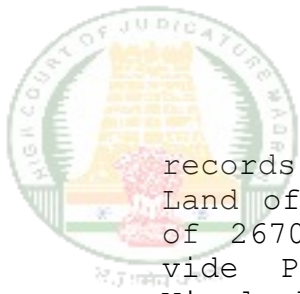
... Petitioner

Vs.

1. The Secretary to Government,
Department of Board of Revenue,
Fort St.George, Secretariat, Chepauk,
Chennai - 600 009.
2. The Commissioner,
Greater Chennai Corporation,
Chennai - 600 003.
3. The District Collector,
Chennai District,
Chennai - 600 001.
4. The District Revenue Officer,
At the Office of the District Collector,
Chennai District,
Chennai - 600 001.
5. The District Revenue Officer (Land and Estates),
At the office of the Corporation Building,
Greater Chennai Corporation,
Chennai - 600 003.
6. The Tahsildar,
Fort - Tandaiyarpur Taluk,
Chennai - 600 003.
7. The Tahsildar,
Perambur Taluk,
Chennai - 600 011.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of a Writ of Mandamus to direct the 7th respondent to consider petitioner representation, dated 21.10.2020, lawyer's notice, dated 10.12.2020 and representation, dated 25.01.2021 respectively and pass orders on the same with respect to change of classification of petitioner's land on the file of the 7th respondent's revenue



records from 'Government Poramboke Land-Road' into 'Ryotwari Land of the petitioner' in respect of Plot No.1 to an extent of 2670 sq.ft., of land, regularized by the 2nd respondent vide Planning Permit No.SD-D/1582/2004, dated 30.12.2004, Visalachi 2nd Cross Street, Lakshmi Amman Nagar, comprised in Survey No.73/6B, Erukkancherry, Chennai-600 118 and to grant patta for the same to and in favour of the petitioner after giving an opportunity of being heard to the petitioner in accordance with law.

For Petitioner : Mr.B.Dayalan
For Respondents : Mr.V.Veluchamy
Government Advocate

ORDER

This writ petition has been filed for a mandamus to direct the seventh respondent to consider petitioner representation dated 21.01.2020, lawyer's notice dated 10.12.2020 and another representation dated 25.01.2021 respectively and pass orders on the same with respect to change of classification of petitioner's land on the file of the seventh respondent's Revenue Records from 'Government Poramboke Land-Road' into 'Ryotwari Land of the petitioner' in respect of Plot No.1 to an extent of 2670 sq.ft., of land, regularized by the second respondent vide Planning Permit No.SD-D/1582/2004, dated 30.12.2004, Visalachi 2nd Cross Street, Lakshmi Amman Nagar, comprised in S.No.73/6B, Erukkancherry, Chennai - 600 118 and to grant patta for the same to and in favour of the petitioner after giving an opportunity of being heard to the petitioner in accordance with law.

2.The case of the petitioner is that originally the agricultural land bearing Wet S.No.73/6B to a total extent acre 0.43 Cents of No.33, Erukkanchery Village of Tandaiyarpur Taluk and other properties in the village were ancestral properties and which was partitioned by her grandfather viz., S.Thanthoni Mudaliyar and his brothers viz., S.Duraisamy Mudaliyar and S.Murugesha Mudaliyar by a Deed of Family Arrangement /Koor Chit, dated 12.05.1959; and said Wet S.No.73/6B- acre 0.43 cents, Wet S.No.144/3-acre 0.10 cents, Wet S.No.54-acre 0.5 cents and Wet S.No.142 - acre 0.35 cents of No.33, Erukkanchery Village allotted to her father under A-Schedule of Property of said Deed/Koor Chit.

3.The petitioner submits that the said land bearing Wet S.No.73/6B-acre 0.43 cents and Wet S.No.144/3- acre 0.10 cents had been enjoyed by her father, Narayanasamy Mudaliyar till his death on 19.05.1982 and after his demise, the same have been in the joint possession of his legal heirs and which includes her.



4.The petitioner further submits that land acquisition proceedings was initiated in the said village by the State Government and by which, a notice, dated 07.08.1986 in No.JI/153/1980 was published by the Special Tahsildar (L.A.) 8 under Sections 9(3) and 10 of the Land Acquisition Act, 1894 (Central Act 64/68) with respect to their said land in Wet S.No.73/6B-acre 0.43 cents and other lands of respective land owners for public purposes, the same was dropped by the State Government for the reasons only known to them and subsequently, the lands which were affected by the said Notice have been promoted as house-sites and buildings as Lakshmi Amman Nagar by the respective owners.

5.According to the petitioner, she along with her mother, brothers and sisters as surviving legal heirs of their father, T.Narayanasamy Mudaliyar had partitioned the above lands by a Deed of Registered Partition dated 23.07.1993 and by which Wet S.No.144/3-acre 0.10 cents was allotted to her mother, T.Ranjithammam as A-Schedule of property and Wet S.No.73/6B-acre 0.43 cents was partitioned by her and her brothers and sisters as 'B to H-Schedule of properties' by virtue of Sale Deed and as such H-Schedule of property to a total extent of 2670 sq.ft., was allotted to her and G-Schedule of property to a total extent of 2684 sq.ft., was allotted to her sister by virtue of Sale Deed.

6.The petitioner submits that she along with her brothers and sisters had jointly applied for Planning Permission/Lay-Out Approval with respect to their said land, bearing Wet S.No.73/6B-acre 0.43 cents as per the said Deed of partition dated 23.07.1993 for house-sites and which was sanctioned by the second respondent-Corporation of Chennai, dated 30.12.2004 Vide No.SD-D/1582/2004, as Plot Nos.1 to 7 as Visalachi 2nd Cross Street, Lakshmi Amman Nagar, comprised in S.No.73/6B of Erukkancherry Chennai - 600 118.

7.The petitioner further submits that after payment of entire charges for a sum of Rs.1,15,340/- (Rupees One Lakh, Fifteen Thousand, Three Hundred and Forty Only) to the second respondent - Chennai Corporation vide Receipt dated 27.12.2004, issued by the Department of Planning, Chennai Corporation and by which Plot No.1 is absolutely belonged to her and Plot No.2 is belonged to her sister, Thamayanthi Selvaraj and which is in their respective possession and enjoyment as vacant lands respectively and which have been fenced till then.

8.According to the petitioner, herself and her brothers and sisters had individually applied for pattas based on the said registered Partition Deed dated 23.07.1993 before the sixth respondent- Taluk Tahsildar, Fort - Tandaiyarpuram and for which individual patta was issued to all of them except herself for the said H-Schedule Property in the said Partition Deed and patta for G-Schedule of property in the said deed was



conferred to her sister, Thamayanthi Selvaraj as deficit of 184 sq.ft., and which is contrary to the actual land allotted to her as per G-Schedule of property in the said deed as 2684 sq.ft.

WEB COPY

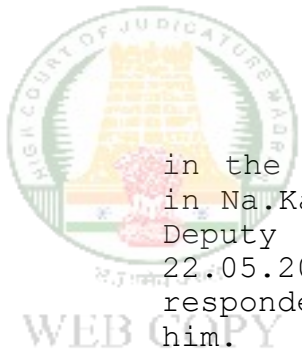
9.The petitioner submits that when the same was questioned by her and her sister before the then Taluk Tahsildar-sixth respondent concerned, it was informed that a wrong entry was crept in the Survey Records-Classification of Lands in the owners column and particularly in the Eastern side portion of said Wet S.No.73/6B and New T.S.No.42-part (Eastern Portion) as, 'Government Poramboke Land-Road' and the Classification of the lands with respect to her H-Schedule of Property and the deficit 184 sq.ft. in G-Schedule of Property as, 'Road' and in the adangal column, it was entered in the name of her father, Narayanasamy and one Krishnamoorthy Mudaliyar, who is none other than their ancestors as correctly.

10.The petitioner further submits that reasons for the wrong entry made by the Revenue Officials was not assigned by then Taluk Tahsildar, Fort-Tandaiyarpet Taluk-sixth respondent and no order of refusal of patta with respect to her H-Schedule of Property was served on her by the Taluk Tahsildar, Fort-Tandaiyarpet, Taluk-sixth respondent so far as to challenge the same in the Court of Law and the reasons best known only to him.

11.According to the petitioner, she had given a representation dated 27.06.2012 to the Taluk Tahsildar, Fort-Tandaiyarpet Taluk-sixth respondent for the grant of patta with respect to her H-Schedule of Property in the said deed with all relevant records as enclosures and which includes the sanctioned lay out-plan dated 30.12.2004 issued by the Commissioner- the second respondent in her favour and her brothers and sisters to prove that it is not a road and which also did not belonged to the State Government which had been entered as 'Government Poramboke Land-Road' in the Revenue Records- Classification of Lands' as wrongly and non-application of mind by the Revenue Officials concerned but, which is their property and the same is to be changed as private lands and belonging to them.

12.The petitioner submits that since no response on the side of the Taluk Tahsildar, Tandiyarpet-sixth respondent, she along with her sister, Thamayanthi Selvaraj had given a representation dated 10.08.2012 to the District Collector concerned-third respondent to change said mistakes/classification of lands and which was crept in the Revenue Records of the said Erukkancherry village with respect to their said lands.

13.The petitioner further submits that she had also given a representation under Public Grievances which was registered



in the Office of the District Land Survey, Chennai - 600 001 in Na.Ka.E1/1817/2015 and in response, she was directed by the Deputy Director, District Land Survey vide his letter dated 22.05.2015 to approach the Taluk Tahsildar, Perambur-seventh respondent for further action and which would be taken only by him.

14. According to the petitioner, she along with her sister Thamayanthi Selvaraj had approached the Taluk Tahsildar, Perambur-seventh respondent for several times and it was informed them by him that already a letter was addressed to the fourth respondent-District Revenue Officer, Chennai District, necessary action would be taken by him against their grievances and for which, they were directed to approach the District Revenue Officer, Chennai District-fourth respondent.

15. The petitioner submits that they had approached several times to the office of the District Revenue Officer, Chennai District- fourth respondent and on one occasion, it was informed that they had already sent a letter dated 20.03.2017 to the fifth respondent-the District Revenue Officer, Chennai Corporation to obtain 'No Objection Certificate' from him to pass orders to change the classification of lands and which had been crept in the Revenue Records of the Taluk Tahsildar, Perambur and particularly in the classification of lands and which is with respect to their lands and at their request a copy of the same was handed over to them to request the fifth respondent - District Revenue Officer (Land and Estates), Chennai Corporation to send NOC immediately.

16. The petitioner further submits that the request the District Revenue Officer, Chennai District-fourth respondent by a representation dated 21.10.2021 by RPAD to send a remainder letter to the fifth respondent-the District Revenue Officer (Land and Estates), Chennai Corporation for obtaining NOC from him to pass orders to change the classification of lands (T.S.No.42-part(Eastern side portion-Government Poramboke Land-Road)) and which has to be entered as private lands/house sites belonging to them in the Revenue Records of Erukkancherry village on the file of the Tahsildar, Perambur Taluk-seventh respondent and also to issue a direction or order to him to grant of patta in her favour in pursuance of H-Schedule of Property of said Deed of Partition dated 23.07.1993 being letter dated 20.03.2017 of the fourth respondent-District Revenue Officer, Chennai District has been pending idle on the file of the fifth respondent-District Revenue Officer (Land and Estates), Chennai Corporation for the past more than three and half years.

17. According to the petitioner, a copy of the same was also marked to the respondents 2, 3, 5 and 7 and which was acknowledged by them on 29.10.2020 respectively and the sixth respondent as undated and in response to her said



representation dated 21.10.2020, the fifth respondent-District Revenue Officer (Land and Estates) Chennai Corporation has sent a letter dated 03.12.2020 to her and which was also marked to the fourth respondent-District Revenue Officer, Chennai District and wherein, it is stated that he had already sent his report to the fourth respondent-the District Revenue Officer, Chennai District by his letter No.LE 1/548/2017 dated 17.03.2017 whereas the letter dated 03.12.2020 does not disclose as to whether he had given no objection to grant patta in her favour in respect of her property or he had raised his objections if any to disallow her request of grant of patta.

18.The petitioner submits that whatever it may be, either this way or that way, it is the duty of the fourth respondent-District Revenue Officer, Chennai District to pass order to grant patta as an Appellate Authority under the Tamil Nadu Patta pass Book Act, 1983 after giving a reasonable opportunity of being heard not only to her but also to the fifth respondent-District Revenue Officer (Land and Estates), Chennai Corporation, if he had raised any objection in the said letter dated 17.03.2017 or if there was no objection by him, the order may be passed by the fourth respondent-District Revenue Officer Chennai District after giving an opportunity of being heard to her only and without his presence being she has been aggrieved due to the inaction on the part of the Revenue Officials.

19.The petitioner further submits that since no response on the part of the fourth respondent-District Revenue Officer, Chennai District even after the receipt of her representation dated 21.10.2021 and also the acknowledgment of the report dated 17.03.2017 from the fifth respondent-District Revenue Officer (Land and Estates), Chennai Corporation by him.

20.According to the petitioner, she sent a lawyer's notice dated 10.12.2020 to the respondents by RPAD which was acknowledged by the respondents 3, 4 and 7 on 14.12.2020, the fifth respondent on 11.12.2020, sixth respondent as undated 14.12.2020 and 14.12.2020 respectively with respect to the first respondent is concerned neither registered cover was returned nor postal acknowledgment was received by her advocate and a copy of the same was also marked to the Chief Minister's Cell and which was acknowledged on 16.12.2020 with respect to requesting the fourth respondent - District Revenue Officer, Chennai District to consider her representation dated 21.10.2020 along with its enclosures and pass orders by directing the seventh respondent -Taluk Tahsildar, Perambur to grant patta in her favour with respect to her said property and apart that she has also requested the first respondent/ Secretary to Government, Department of Board of Revenue to take disciplinary action against the fifth respondent - District Revenue Officer (Land and Estates), Chennai Corporation.



21.The petitioner submits that her lawyer has received a phone call from the Taluk Surveyor of the seventh respondent office, Mr.Chenzhian with respect to that they have received a letter from the Chief Minsiter's Cell and also from the fourth respondent-Taluk Tahsildar, Perambur and submitted a fresh representation dated 25.01.2021 along with relevant enclosures in the Tapal Section as directed by her with respect to change of Classification of lands from 'Government Poramboke Land-Road into Ryotwari land of the petitioner and based on the same to grant patta in her favour with respect to her said property.

22.The petitioner further submits that she has also understood that only due to the fifth respondent -District Revenue Officer (Land and Estates), Chennai Corporation's objection with respect to not to change the classification of her land', it was not changed and also no action has been taken for nearly a decade by the Revenue Officials concerned.

23.According to the petitioner, the market value of her said property is more than Rupees One Crore, if the State Government requires her land for public purpose, it can be very well initiate land acquisition proceedings and acquire the same in accordance with law and after payment of compensation to her.

24.According to the petitioner, the fifth respondent-District Revenue Officer (Land and Estates), Chennai Corporation had raised his objections as above before the fourth respondent-District Revenue Officer, Chennai District is without authority, not sustainable in law and on facts and which is nothing but to grab her property, a poor house-wife of a retired school teacher and without initiating the land acquisition proceedings and which is also a short cut method by the Revenue Officials to grab private properties from her and for which, such an arbitrary and malafide act of the fifth respondent -District Revenue Officer (Land and Estates), Chennai Corporation is illegal and contrary to law.

25.The petitioner submits that her said representation dated 21.10.2020, lawyer's notice dated 10.12.2020 and another representation dated 25.01.2021 respectively have been pending idle for more than one and half years on the file of the seventh respondent Taluk Tahsildar, Perambur without any action on the same and which would candidly shows inaction on the same and failed to discharge Statutory Duty under Section 10 of the Tamil Nadu patta Pass Book Act, 1983.

26.The petitioner has no other alternative remedy except to approach this Court under Article 226 of the Constitution of India. Hence, the writ petition filed.

27.Heard, learned counsel for the petitioner and the learned Government Advocate for the respondents and perused



the materials available on record.

28. In view of the above facts and circumstances of the case and considering the submission made by the petitioner and without expressing any opinion on merits, this Court directs the seventh respondent to consider the representation of the petitioner dated 21.10.2020 and 25.01.2021 and pass appropriate orders in accordance with law after issuing notice to all the parties concerned within a period of four months from the date of receipt of a copy of this order.

29. With the aforesaid direction, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

pam

1. The Secretary to Government,
Department of Board of Revenue,
Fort St. George, Secretariat, Chempauk,
Chennai - 600 009.
2. The Commissioner,
Greater Chennai Corporation, Chennai - 600 003.
3. The District Collector,
Chennai District, Chennai - 600 001.
4. The District Revenue Officer,
At the Office of the District Collector,
Chennai District, Chennai - 600 001.
5. The District Revenue Officer (Land and Estates),
At the office of the Corporation Building,
Greater Chennai Corporation, Chennai - 600 003.
6. The Tahsildar,
Fort - Tandaiyarpur Taluk,
Chennai - 600 003.
7. The Tahsildar,
Perambur Taluk, Chennai - 600 011.

+1cc to Mr. B. Dayalan, Advocate SR. No. 52925

W.P. No. 19130 of 2021