

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 7/1/2021

C O R A M

THE HON'BLE MR.JUSTICE S.SUNDAR

Writ Petition No.22189 of 2017

and

W.M.P.No.23218 of 2017

S. Amudha ... Petitioner

Vs

1. The District Collector  
Chennai District  
Chennai.

2. The Commissioner  
Chennai Corporation  
Chennai.

3. The Tahsildar  
Tahsildar Office  
Perambalur  
Chennai 600 011.

4. The Zonal Officer  
Zone 4 (North)  
Greater Chennai Corporation  
Tondiarpet  
Chennai.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the respondents to consider the petitioner's application dated 6/6/2017 for issuance of patta within the time fixed by this Court.

For petitioner ... Mr.N.Valliamma

For respondents ... Mr.M.Venkatesh Kumar  
Government Advocate  
for R.R.1 and 3.

Mr.R.Gopinath  
for R.R.2 and 4.

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## O R D E R

This writ petition is filed for issuing a writ of mandamus, directing the respondents to consider the petitioner's application, dated 6/6/2017, for issuance of patta, within a time frame fixed by this Court.

2. The petitioner states that his father purchased a property of 332 sq.feet from one A.Karuppaiya, through an unregistered sale deed, dated 25/1/1984. Vendor to the petitioner's father had purchased the property through a registered sale deed, dated 29/7/1982 and it was registered as Document No.3611/1982. Based on the settlement deed, executed by the petitioner's father in favour of the petitioner's mother in 2007 and the subsequent sale deed executed by petitioner's mother in favour of petitioner and her sister, the petitioner claim that she is in possession and enjoyment of the property as exclusive owner.

3. Learned counsel appearing for the second respondent submitted that property forms part of a road which vest with the second respondent. It is further contended that the property was classified not as a grama natham but the land belong to Greater Chennai Corporation. Counter affidavit filed by the third respondent also support the stand of the Commissioner. Version of the third respondent would indicate that the petitioner's possession should be treated as encroachment.

4. Though the petitioner claim that the property to which the petitioner seeks patta is a grama natham and she has put up construction and obtained electricity connection for the building, second respondent states that the property of Greater Chennai has been encroached by the petitioner by creating documents and that the petitioner is not the owner. It is further stated that the property, encroached by the petitioner falls within the road. Since the property has been included in the holdings of Corporation, as per revenue records and that property forms part of road, it is contended by the second respondent in their counter that the writ petition is liable to be dismissed.

5. This Court in a writ petition cannot decide the rival claim of title or entitlement of the petitioner to get patta by accepting her case that the property is a grama natham and that the petitioner's enjoyment should be taken for conferring her to get patta under natham settlement. When the dispute relates to title and

classification or holdings in relation to immovable property, Civil Court alone is competent to deal with the disputed questions of fact. On the basis of documents filed and rival contentions, this Court cannot go into the disputed question of fact, particularly when the petitioner is unable to produce before this Court the revenue records or other registers maintained by the revenue to prove the classification or prior title.

6. It is admitted that the petitioner's vendor was never given patta and no patta was given to the petitioner or her mother or father who claim to have purchased the property under an unregistered sale deed. There cannot be a transfer of right in respect of immovable property through an unregistered sale deed. Assuming that the petitioner is in possession, unless her possession is lawful, she cannot get an order from this Court to protect her possession. When the respondents have raised rival claim, disputing petitioner's title, this Court is of the view that the petitioner can be directed to approach the Civil Court for appropriate relief.

7. Accordingly, instant writ petition is dismissed with liberty to the petitioner to approach the Civil Court to establish the petitioner's exclusive title or possession. Thereafter, in accordance with the verdict of the Civil Court, it is open to the petitioner to approach the revenue authorities to get patta and seek modification of revenue records accordingly. No costs. Consequently, connected Miscellaneous Petition No.23218 of 2017 is closed.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

mvs.  
To

1. The District Collector  
Chennai District  
Chennai.
2. The Commissioner  
Chennai Corporation  
Chennai.

WEB COPY

3. The Tahsildar  
Tahsildar Office  
Perambalur  
Chennai 600 011.
4. The Zonal Officer  
Zone 4 (North)  
Greater Chennai Corporation  
Tondiarpet  
Chennai.

+1cc to Mr.R.Gopinath , Advocate SR.No.

+1 cc to Government Pleader Sr.No. 1112

W.P.No.22189 of 2017

A.SK(04.03.2021)



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