



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.26229 of 2012

D.Ramalakshmi

... Petitioner

Vs.

1.The District Collector,
Kanchipuram District,
Kanchipuram.

2.The Thasildar,
Chengalpattu Taluk,
Chengalpattu.

... Respondents

PRAYER: The Writ Petition filed under Section 226 of Constitution of India, pleased to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent in his proceedings in Na. Ka. No. 6127/ 2012/Aa1, dt 2.8.2012 and quash the same and thereby direct the 2nd respondent to transfer the patta in favour of the petitioner for the petitioners property in S.No. 357-361 3220 sq.ft. (7 cents) at Ninnakarai Village, Chengalpattu Taluk , Maraimalai Nagar, Rail Nagar, Phase I, Plot No.5, Block No.2.

For Petitioner : Mr.N.Suresh

For Respondents : Mr.G.Nanmaran
Special Government Pleader

O R D E R

The petitioner has filed this petition for issuance of Writ of Certiorarified Mandamus to call for the records of the 2nd respondent in his proceedings dt 2.8.2012 and quash the same and thereby direct the 2nd respondent to transfer the patta in favour of the petitioner for the petitioners property in S.No. 357-361, 3220 sq.ft. (7 cents), at Ninnakarai Village, Chengalpattu Taluk , Maraimalai Nagar, Rail Nagar, Phase I, Plot No.5, Block No.2.

2. The case of the petitioner is that the petitioner is the owner of the above said land. Originally the entire survey number was acquired by the Chennai Metropolitan



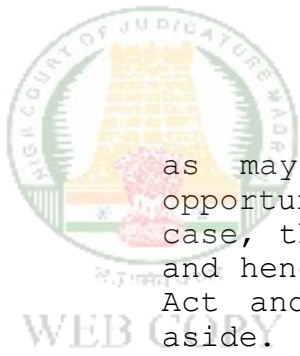
Development Authority for the scheme of ''The New Town at Manali / Maramalai Nagar'' and thereafter had developed the property and formed layout for construction of H.I.G.Flats in the property and subsequently plot no.5 in the formed lay out by the CMDA was allotted to the petitioner's vendor, who in turn executed a Sale Deed in favour of the petitioner for a valid consideration. The petitioner has made several written representation to the respondents to transfer patta in his favour, however inspite of several written representations, the respondents have not chosen to transfer patta in favour of the petitioner. Hence, the petitioner has filed W.P.No.24851 of 2011, whereby this Court directed the 2nd respondent to consider the representation. Inspite of the order of this Court, the 2nd respondent did not transfer the patta and therefore, the petitioner has filed Contempt Petition No.1058 of 2012. During the pendency of the Contempt Petition, the respondent has issued the impugned order, stating that the patta cannot be granted, as the properties are Government Poromboke lands. Challenging the same, the present petition is filed.

3. The learned counsel appearing for the petitioner submitted that without verifying the government records, the 2nd respondent had deliberately passed the impugned order and the same is liable to be quashed for the reason that the property is no longer a government poromboke property as the Government has already handed over the same to CMDA and after forming plots, the CMDA had sold the same to one Loganathan, who in turn sold it to the petitioner and further the respondents without providing opportunity under Section 10 of the Patta Passbook Act, has passed the impugned order and hence this Court may set aside the order, and remand the matter to the respondents for fresh orders.

4. The learned Special Government Pleader appearing for the official respondents has no objection for the said order being passed and he submitted that appropriate order will be passed after following procedures, as contemplated under Section 10 of the Tamil Nadu Patta Passbook Act, 1983.

5. This Court has carefully considered the rival submissions and also perused the materials available on record.

6. Facts in the present case is not in dispute. Admittedly the petitioner purchased the property in plot no.5, which was assigned to his vendor vide SLR Register dated 20.07.2007 and this Court has perused the said SLR issued by the 2nd respondent Office and on perusal of the same, it reveals that S.No. 357-361, is classified as Plots, whereas the impugned order states that the said survey numbers as 'Gracing land' and 'Cart Track Poromboke' and further as per Section 10 (3) of the said Act, any modification of entries in the patta pass book, the Tahsildar shall follow such procedure



as may be prescribed and shall also give a reasonable opportunity to the parties concerned. However in the present case, there is no such opportunity was given to the petitioner and hence it is a clear violation of Section 10(3) of the said Act and therefore, the impugned order is liable to be set aside.

7. In view of the above, the Writ Petition is allowed and the proceedings of the 2nd respondent in Na. Ka. No. 6127/2012/Aa1, dt 2.8.2012, is set aside and the matter is remanded to the 2nd respondent for fresh disposal and the 2nd respondent after following the due process of law under Section 10(3) of the Act and after hearing the parties concerned, shall pass appropriate orders, within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector,
Kanchipuram District,
Kanchipuram.

2.The Thasildar,
Chengalpattu Taluk,
Chengalpattu.

+lcc to Mr.N.Suresh, Advocate SR. No.15608

+lcc to Government Pleader SR. No.16249

W.P.No.26229 of 2012

GPL (CO)

PR (28/03/2022)