



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.29174, 31826, 31827, 31833, 31834, 31835, 31836, 31837,
31838, 31839, 32682 of 2013 and 8646 and 8647 of 2014

and

M.P.Nos.1 and 2 of 2013

in

W.P.Nos.29174, 31826, 31827, 31833, 31834, 31835, 31836, 31837,
31838, 31839, 32682 of 2013

and

M.P.Nos.1 and 2 of 2014

in both W.P.Nos.8646 and 8647 of 2014

S.Eswaran ...Petitioner in W.P.No.29174 of 2013

R.K.Venkadatri ...Petitioner in W.P.No.31826 of 2013

T.Kalaivani ...Petitioner in W.P.No.31827 of 2013

T.Marimuthu ...Petitioner in W.P.No.31833 of 2013

P.A.Sankaranarayanan ...Petitioner in W.P.No.31834 of 2013

J.Karpakam ...Petitioner in W.P.No.31835 of 2013

Savithri Jaganathan ...Petitioner in W.P.No.31836 of 2013

K.Suresh ...Petitioner in W.P.No.31837 of 2013

K.Elango ...Petitioner in W.P.No.31838 of 2013

S.Saravanamoorthy ...Petitioner in W.P.No.31839 of 2013

K.S.Sundaramoorthy

S.Mani

Revathi Ramasamy

S.Gokul ...Petitioners in W.P.No.32682 of 2013

R.Gopinath ...Petitioner in W.P.No.8646 of 2014

K.Vinoth Bama ...Petitioner in W.P.No.8647 of 2014



Vs.

1.The Collector,
Kancheepuram,
Kancheepuram District.

2.The Revenue Divisional Officer,
Kancheepuram Division,
Kancheepuram District.

3.The Tahsildar,
Sriperumbudur Taluk,
Sriperumbudur.

4.Mrs.Muniammal

5.Mrs.Banu

...Respondents in all WP's

Prayer in WP No.29174 of 2013:

Writ of Certiorarified Mandamus calling for the records of the 2nd respondent relating to the impugned order vide his proceeding No.Na.Ka.No.1122/2010/A2 dated 12.8.2013 quash the same in so far as it relates to cancel of patta No.1224, in respect of plot NO.158 comprised survey No.357/2A, 357/2B and 357/2C in Manimangalam Village, Sriperumbudur Taluk, Kancheepuram District measuring an extent of 2920 sq.ft. and to issue consequential directions to restore the patta in petitioner's name.

Prayer in WP No.31826 of 2013:

Writ of Certiorarified Mandamus calling for the records of the 2nd respondent relating to the impugned order vide his proceeding No.Na.Ka.No.1122/2010/A2 dated 12.8.2013 quash the same in so far as it relates to the plot No.163 comprised survey No.357/1C, 357/2B in Manimangalam Village, Sriperumbudur Taluk, Kancheepuram District measuring an extent of 2400 sq.ft. and to issue consequential directions to issue patta in to petitioner's name.

Prayer in WP No.31827 of 2013:

Writ of Certiorarified Mandamus calling for the records of the 2nd respondent relating to the impugned order vide his proceeding No.Na.Ka.No.1122/2010/A2 dated 12.8.2013 quash the same in so far as it relates to cancel in respect of the plot No.109 comprised survey No.357/2A, 357/2B in Manimangalam Village, Sriperumbudur Taluk, Kancheepuram District measuring an extent of 2400 sq.ft. and to issue consequential directions to issue patta in to petitioner's name.

Prayer in WP No.31833 of 2013:

Writ of Certiorarified Mandamus calling for the records of



the 2nd respondent relating to the impugned order vide his proceeding No.Na.Ka. No.1122/2010/A2 dated 12.8.2013 quash the same in so far as it relates to cancel the patta No.1223, in respect of Plot No.130 comprised survey No.357/2B in Manimangalam Village, Sriperumbudur Taluk, Kancheepuram District measuring an extent of 2100 sq.ft. and to issue consequential directions to restore petitioner patta his name.

Prayer in WP No.31834 of 2013:

Writ of Certiorarified Mandamus calling for the records of the 2nd respondent relating to the impugned order vide his proceeding No.Na.Ka. No.1122/ 2010/A2 dated 12.8.2013 quash the same in so far as it relates to cancel of patta in respect of Plot No.166 comprised survey No.357/2C in Manimangalam Village, Sriperumbudur Taluk, Kancheepuram District measuring an extent of 2400 sq.ft. and to issue consequential directions to issue patta in petitioner's name.

Prayer in WP No.31835 of 2013:

Writ of Certiorarified Mandamus calling for the records of the 2nd respondent relating to the impugned order vide his proceeding No.Na.Ka. No.1122/2010/A2 dated 12.8.2013 quash the same in so far as it relates in respect of Plot No.136 comprised survey No.357/2B, 357/2C in Manimangalam Village, Sriperumbudur Taluk, Kancheepuram District measuring an extent of 2400 sq.ft. and to issue consequential directions to issue patta in petitioner's name.

Prayer in WP No.31836 of 2013:

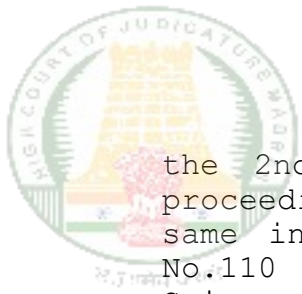
Writ of Certiorarified Mandamus calling for the records of the 2nd respondent relating to the impugned order vide his proceeding No.Na.Ka. No.1122/2010/A2 dated 12.8.2013 quash the same in so far as it relates to in respect of Plot No.137 comprised survey No.357/2B, 357/2C in Manimangalam Village, Sriperumbudur Taluk, Kancheepuram District measuring an extent of 2320 sq.ft. and to issue consequential directions to issue patta in petitioner's name.

Prayer in WP No.31837 of 2013:

Writ of Certiorarified Mandamus calling for the records of the 2nd respondent relating to the impugned order vide his proceeding No.Na.Ka. No.1122/2010/A2 dated 12.8.2013 quash the same in so far as it relates to cancel of patta No.2365, in respect of Plot No.165 comprised survey No.357/36 in Manimangalam Village, Sriperumbudur Taluk, Kancheepuram District measuring an extent of 2280 sq.ft. and to issue consequential directions to issue patta in petitioner's name.

Prayer in WP No.31838 of 2013:

Writ of Certiorarified Mandamus calling for the records of



the 2nd respondent relating to the impugned order vide his proceeding No.Na.Ka. No.1122/2010/A2 dated 12.8.2013 quash the same in so far as it relates to cancel in respect of Plot No.110 comprised survey No.352/2B in Manimangalam Village, Sriperumbudur Taluk, Kancheepuram District measuring an extent of 2400 sq.ft. and to issue consequential directions to issue patta in petitioner's name.

Prayer in WP No.31839 of 2013:

Writ of Certiorarified Mandamus calling for the records of the 2nd respondent relating to the impugned order vide his proceeding No.Na.Ka. No.1122/2010/A2 dated 12.8.2013 quash the same in so far as it relates to cancel of patta No.1307, in respect of Plot No.138 comprised survey No.357/2B, 357/2C in Manimangalam Village, Sriperumbudur Taluk, Kancheepuram District measuring an extent of 2240 sq.ft. and to issue consequential directions to restore the petitioner patta in his name.

Prayer in WP No.32682 of 2013:

Writ of Certiorarified Mandamus calling for the records of the 2nd respondent relating to the impugned order vide his proceeding NO. Na. Ka. NO.1122/2010/ A2 dated 12.8.2013 quash the same in so far as it relates to cancel of patta in respect of plot No.167 comprised Survey NO.357/2C in Manimangalam Village, Sriperumbudur Taluk, Kanchipuram District, measuring an extent of 2400 Sq.ft., and to issue consequential directions to issue patta in petitioners name.

Prayer in WP No.8646 of 2014:

Writ of Certiorarified Mandamus calling for the records of the 2nd respondent relating to the impugned order vide his proceedings No.Na.Ka.No. 1122/2010/A2 dt.12.08.2013 quash the same in so far as it relates to cancel of patta No.1320 in respect of Plot No. 165 comprised Survey No. 357/2A, 357/2B and 357/2C and as per new Survey No 357/22 in Manimangalam Village, Sriperumbudur Taluk, Kancheepuram District measuring an extent of 1770 sq.ft. and to issue consequential directions to restore the petitioner patta in his name.

Prayer in WP No.8647 of 2014:

Writ of Certiorarified Mandamus calling for the records of the 2nd respondent relating to the impugned order vide his proceedings No.Na.Ka.No. 1122/2010/A2 dt.12.08.2013 quash the same in so far as it relates to cancel of patta No.3187 in respect of Plot No. 111 comprised Survey No. 357/2A, 357/2B and 357/2C and new No.357/41 in Manimangalam Village, Sriperumbudur Taluk, Kancheepuram District measuring an extent of 1200 sq.ft. and to issue consequential directions to restore the petitioner patta in her name.



WEB COPY

For Petitioners in all petitions : Mr.J.Muthukumaran
For RR1 to 3 in all petitions : Mr.G.Nanmaran
Special Government Pleader
For RR4 and RR5 : Mr.V.Chandrakanthan

COMMON ORDER

The petitioners have filed these petitions to call for the records of the 2nd respondent relating to the impugned order dated 12.08.2013 and quash the same and to issue consequential direction to issue patta in the petitioners' name.

2. Since the issue arises in the present cases for consideration are one and the same, it is taken up for final disposal by this common order. The case of the petitioners is that the petitioners have purchased their respective plots at Sri Gajalakshmi Nagar, comprised in various survey numbers, Manimangalam Village, Sriperumbudhur Taluk, Kancheepuram District, South Madras Registration District and Padappai Sub Registration, by way of various Sale Deeds. Originally, the property situated at Manimangalam Village comprised of S.FNos.357/2A, 357/2B, 257/2C of an extent of 1 acre 93 cents was owned by one Seenapalli. After his demise, his four daughters namely Mariammal, Dhanalakshmi, Saraswathy and Alliammal, made family partition among themselves at the rate of each 48 cents except Alliammal 49 cents. Thereafter, the said Mariammal expired and her own daughters, Chellammal and Boopathiammal on 19.01.1983, executed a Sale Deed in respect of 0.48 cents of the land in favour of Navamaniammal. Similarly Saraswathi sold 0.48 cents of land in favour of Navamaniammal. The said Dhanalakshmi who is the mother of respondents 4 and 5 herein had sold her in favour of the said Navamaniammal and thereby, the said Navamaniammal by way of 4 documents purchased the lands in S.F. NO.357/2A, 357/2B, 357/2C. On 24.08.1998, the said Navamaniammal sold 1.93 cents of land in favour of Jayammal by document No.1665/1998. Thereafter, the said Jayammal along with other landowners had jointly formed layouts in the name of Sri.Gajalakshmi nagar and got building plan approval from the concerned authority vide DTCP No.376/99 and executed Gift Deed in favour of concerned Panchayat for road purpose. Thereafter, the said Jayammal and other landowners jointly executed General Power of Attorney in favour of the Mambalam Kasi Viswanatha Co-operative Building Society, Lake View Road, West Mambalam, Chennai, rep by its Administrator Mr.Gunaseelan, in respect of 91 plots. Thereafter the said Society made advertisement in all leading newspapers for sale of Sri Gajalakshmi Nagar Layout



Plots and thereby, the petitioners also purchased their plots. After the purchase of the said property, the petitioners have approached the Tahsildar, Sriperumbudur for issuance patta and Thereafter, the surveyor inspected the property and granted pattas in favour of the petitioners

3. While such being the position, the respondents 4 and 5 had approached the Tahsildar, Sriperumbudur / 3rd respondent, stating that they are the owners of the property by virtue of exparte decree in O.S.No.2015/1993, dated 03.12.2002, before the District Munsif Court, Poonamalli and claiming patta in their names and also filed W.P.NO.19560/2008 for Writ of Mandamus, to direct the Tahsildar, Sriperumbudur to issue patta and this Court vide order dated 13.08.2008 directed the Tahsildar, Sriperumbudur, to consider and dispose of the representation of the respondents 4 and 5 and subsequently, their claim was rejected by order dated 22.05.2009, stating that the extent of 1.93 cents were already developed as layout in the name of Sri.Gajalakshmi Nagar, and various person purchased plots in that survey number and most of them obtained patta in their names and moreover, the respondents 4 and 5 were not in possession of the land and the revenue records also stand in the names of the above plot owners and therefore, the 3rd respondent has no power to cancel the patta which were already issued to the respective land owners. Against the said rejection order, the respondents 4 and 5 filed an appeal before the 2nd respondent on 14.09.2009 and also again filed Writ Petition in W.P.NO.14982/2010 for Mandamus to direct the 2nd respondent to pass orders on appeal dated 14.09.2009 and the same was disposed of on 26.07.2010 by directing the 2nd respondent to consider and dispose of the appeal within a period of four months and in compliance of the said order the 2nd respondent considered the appeal and passed orders cancelling all pattas in respect of S.F.Nos.357/2A, 357/2B, 357/2C. Aggrieved by the same, these petitions have been filed by the petitioners.

4. The learned counsel appearing for the petitioner submitted that though the petitioners are the bona fide purchasers, the 2nd respondent without giving any opportunity or without giving any notice to the petitioners, straight away cancelled all the patta in respect of S.F.Nos.357/2A, 357/2B, 357/2C and also decided the title of land and the 2nd respondent in his order mentioning that so many plot owners have obtained patta and declared that the revenue records standing in the names of many plot owners. It is the specific case of the petitioner that there is a dispute between rival parties, touching upon the title of the properties and therefore, the competent Forum is only the Civil Court having jurisdiction.

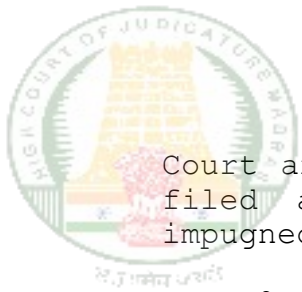


5. Further it is submitted that the Patta is not a title, it is only a possessory right. Even possessory right was vested with the petitioners based on the DTCP approval granted by the Town and Country Planning authority. Further with respect to the exparte decree in O.S.No.2015/1993 dated 03.12.2002, the respondents 4 and 5 had not impleaded the petitioners as parties therein and they were not parties in the said Suit and therefore, the exparte decree obtained by the respondents 4 and 5, is non est in law and the same cannot be relied upon. Since the issue raised in the present petition is a disputed question of facts, this Court may permit the petitioners to file appropriate Suit against the private respondents before the competent Civil Court. In the meanwhile, this Court may grant Status Quo in respect of operative portion of the impugned order as against the petitioners.

6. The learned counsel appearing for the respondents 4 and 5 submitted that the property was originally owned by their Mother Mrs.Dhanalakshmi, who had obtained the same from her mother under a Will dated 03.07.1969. While so, one Mrs.Navamaniammal and others illegally interfered with the possession of the property and thereby we along with their mother had filed the above said Suit and contested the same continuously. However during the pendency of the Suit, Mrs.Navamaniammal and others illegally created a Sale Deed in favour of Mrs.Jayammal and the said Jayammal filed I.A.No.1068 of 2003 in O.S.No.2015/93 to implead her as party in the above Suit filed by them. The said Interlocutory Application was allowed on 11.02.2004 by the learned District Munsif, Poonamallee. Against the said order, we had filed C.R.P.No.2154 of 2004, before this Court to set aside the order of the learned District Munsif, Poonamalle and the said Civil Revision Petition was allowed and consequently the Interlocutory Application was dismissed and subsequently, the decree was passed by the learned District Munsif in O.S.No.2015 of 2002, declaring that the respondents 4 and 5 were the absolute owner of the property. However the respondents 4 and 5 have no serious objection for grant of liberty to the petitioners to file Suit before the competent Civil Forum.

7. This Court has carefully considered the rival submissions and also perused the materials placed before it.

8. It is the claim of the petitioners that they are the bona fide purchasers and the 2nd respondent without giving any opportunity or without giving any notice to the petitioners, straight away cancelled all the patta in respect of S.F.Nos.357/2A, 357/2B, 357/2C and also decided the title of land. However, it is alleged by the respondents 4 and 5 that with regard to the issue in question, already civil suits were filed by the petitioners before the learned District Munsif



Court and the same are pending and some of the petitioners also filed an appeal before the District Collector against the impugned order.

9. From the above, this Court is of the opinion that when there is a dispute regarding title of the property, the parties have to approach the competent Civil Forum for redressal of their grievance and this Court under Article 226 of the Constitution of India cannot entertain the disputed question of facts and is inclined to pass the following order. This Court permits the petitioners to file an appropriate Suit against the private respondents before the competent Civil Court and raise all the disputed question of facts before the said Forum. The Impugned order in this Writ Petition's subject to result of the Civil Suit filed by the Petitioner.

10. These Writ Petitions are disposed of with the above observations. NO costs. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Collector,
Kancheepuram, Kancheepuram District.
2. The Revenue Divisional Officer,
Kancheepuram Division, Kancheepuram District.
3. The Tahsildar,
Sriperumbudur Taluk, Sriperumbudur.

+1cc to Mr.V.Chandrakanthan, Advocate SR. No.8161

+1cc to Government Pleader SR. No. 8677

+12ccs to Mr.J.Muthukumaran, Advocate SR. Nos.8122, 8123, 8124 to 8133

W.P.Nos.29174, 31826, 31827, 31833, 31834, 31835, 31836, 31838, 31839, 32682 of 2013 and 8646 and 8647 of 2014

SRA (CO)

PR (05/04/2022)