



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2022

CORAM

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.36093 of 2015

S.Ashok Kumar

... petitioner

-Vs-

1. The District Revenue Officer,
Thiruvallur District, Thiruvallur.

2. The Tahsildar,
Maduravoyal Taluk,
Maduravoyal, Chennai.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, for issuance of Writs of Certiorari calling for the records relating to the first respondent's proceedings made in R.C.No.27313/2007/B-3 dated 28.08.2015 and quash the same.

For petitioner : Mr. M.Muthappan

For Respondents : Mr. U.Bharanidharan, AGP

ORDER

This petition has been filed seeking to quash the proceedings made in R.C.No.27313/2007/B-3, dated 28.08.2015 by the first respondent.



2. It is the case of the petitioner that the larger extent of the land comprised in S.No.74,75/1,2; 76,93,97/1,98/2,99/1,2,100/1,2,102,104/part, 106/part, 107/part, 109, 111 and 139 over an extent of 14.77 acres in Porur Village were owned by one Rajaram and others and they informed that the layout has made as house sites and the same was approved by the Town Planning Authority.

3. It is the further case of the petitioner that one Dorathy Wilfred had purchased three plots No.15, 21 and 22 in Lakshmi Nagar and the same was registered in the year 1974. By sale deed dated 23.10.1981, one Sheela Elliot had purchased the plot No.21 and 22 from one Dorathy Wilfred. By sale deed dated 28.10.1988, one Nilash jalan has purchased the plots No.21 and 22 from the said Sheela Elliot. The said Sheela Elliot has also executed a rectification deed with respect to Survey No.109, since there are various survey numbers in the above said layout and the plot No.21 and 22 was mistakenly mentioned as S.No.109 instead of S.No.106/2. Thereafter, the said Nilesch Jalan obtained a planning permission and constructed flats. The petitioner has purchased a flat together with undivided share of the land by sale deed dated 07.05.2001 and the same was registered as document No.2164 of 2001.



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4. It is the further case of the petitioner that the petitioner's predecessor in title has obtained patta and the revenue records stand in the name of the petitioner's predecessor in title. While so, the first respondent issued impugned notice dated 28.08.2015 stating that the patta granted in favour of one Sheela Elliot, the predecessor in title was mistakenly granted in S.No.106/2 previously it was S.No.106/3, which was taken by the Government as a urban vacant land and allotted to Tamil Nadu Tourism Development Corporation Ltd., and the said mistake was done during the UDR scheme. Challenging the said impugned notice, the present writ petition has been filed.

5. The learned counsel for the petitioner submitted that this Court may quash the impugned order and to permit the petitioner to file fresh application before the jurisdictional Tahsildar for cancellation of patta which stands in the name of the petitioner's predecessor in respect of the subject property after succeeding the case before the competent civil Court.

6. Heard the learned counsel on either side and perused the materials available on record.



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6. On perusal of the affidavit as well as the impugned order, it is made clear that the claim made by the petitioner is disputed question of fact, which cannot be decided by this Court as well as the revenue officials and the same has to be decided only by the competent civil forum. When the matter is taken up for hearing, the learned counsel has also seeks liberty to approach the competent civil Court in respect of the subject property.

7. Considering the facts and circumstances of the case, this Court passes the following order:

(i) This Court directs the petitioner to approach the competent civil Court and file a suit for establishing his rights;

(ii) if the petitioner approach the civil Court, the learned Judge shall decide the case independently, without influencing the observation made in the impugned order; and

(iii) if the petitioner succeeds the suit, the petitioner shall make a fresh application/petition to the concerned Tahsildar along with the decree passed by the trial Court. After receipt of such application/petition, the concerned Tahsildar shall consider the same and pass appropriate orders, after affording



opportunity to the necessary parties, based on the decree passed by the trial Court, on merits and in accordance with law.

8. With the above directions, this Writ Petition is disposed of. No costs.

21.11.2022

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Index : Yes/No

Internet: Yes/No

Speaking Order : Yes/No

To

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M.DHANDAPANI, J.

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