



W.P.No.25706 of 2016 & CrI.R.C.No.457 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 29.11.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.25706 of 2016

and

CrI.R.C.No.459 of 2018

and

W.M.P.Nos.22042, 22043 of 2016,
26182, 26183 of 2017 and 4241 of 2020

W.P.No.25706 of 2016

1. N.S.Mohanakrishnan (Died)
2. N.S.Madhanagopal
3. Manjula Mohanakrishnan
4. Venkatesan Mohanakrishnan
5. Gnanabiran Mohanakrishnan
(P3 to P5 substituted as LR's of
deceased first petitioner)

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Petitioners

Vs

1. The District Collector,
Kancheepuram District,
Kancheepuram.

2. The District Revenue Officer,
Office of the District Collector,
Kancheepuram District,
Kancheepuram.

3. The Thasildar,
Pallavaram Taluk,



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Kancheepuram District,
Pallavaram.

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4. The Special Thasildar,
Town Survey Scheme,
Pallavaram Taluk,
Kancheepuram District,
Pallavaram.

5. The Commissioner,
Pallavaram Municipality,
Pallavaram.

6. S.Ravi

7. S.Siva

8. S.Lakshmi

9. R.Geetha

10. K.Gunaseelan

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Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for all relevant records relating to the grant of patta in impugned order issued in Na.Ka.No.2000/2015/A1 dated 17.12.2015 passed by the 4th respondent and quash the same as arbitrary, unreasonable, improper, illegal against the rules and regulations of the respondents and violation to the principles of natural justice and thereby directing the respondents 1 to 5 to cancel the wrong survey No.437/94 as well as remove the name of the respondents 6 to 9 made in the petitioners property situated at Ward No.D, Block No.29, Town survey Nos.13, 14 and 15, Zameen Pallavaram Village, Pallavaram Taluk, Kancheepuram District by incorporating correct survey No.437/66 as well as name of the petitioner in the petitioners properties revenue records namely 'A' Register, Town Survey



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Register and Town Survey Field Register etc., within the time framed fixed by this Court. **(Prayer amended vide order dated 14.11.2022 made in WMP.No.26181 of 2017 in W.P.No.25706 of 2016)**
Crl.R.C.No.459 of 2018

N.S.Madhanagopal

....

Petitioner

Vs

1. State represented by
The Inspector of Police,
Central Crime Branch – II,
ALGSC-II, Veppery,
Chennai – 600 007.

2. K.Gunaseelan

3. S.Ravi

4. R.Geetha

5. S.Siva

6. S. Lakshmi

7. Special Tahsildar,
Town Land Survey Scheme,
Pallavaram Taluk,
Kanchipuram District.

....

Respondents

PRAYER: Criminal Revision Case filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to call for the records relating to the order dated 11.01.2018 passed in C.M.P.No.526 of 2017 on the file of the Judicial Magistrate, Tambaram.



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In W.P.No.25706 of 2016

For Petitioners	: Mr.C.R.Malarvannan
For R1 to R4	: Mrs.V.Yamuna Devi Special Government Pleader
For R5	: Mr.P.Srinivas
For R6 to R9	: Mr.Kandan Duraisami
For R10	: Mrs.GPN. Bharathy

In Crl.R.C.No.459 of 2018

For Petitioner	: Mr.C.R.Malarvannan
For R1	: Mr.A.Gopinath Government Advocate (Crl.Side)
For R2 to R6	: Mrs.R.Savitha for Mr.J.Bharathiraja
For R7	: Mrs.V.Yamuna Devi Special Government Pleader

COMMON ORDER

The Writ Petition has been filed to call for the records relating to the grant of patta in impugned order issued in Na.Ka.No.2000/2015/A1 dated 17.12.2015 passed by the 4th respondent and quash the same as arbitrary, unreasonable, improper, illegal against the rules and regulations of the respondents and violation to the principles of natural justice and thereby directing the respondents 1 to 5 to cancel the wrong survey No.437/94 as well as remove the name of the respondents 6 to 9 made in



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the petitioners property situated at Ward No.D, Block No.29, Town survey Nos.13, 14 and 15, Zameen Pallavaram Village, Pallavaram Taluk, Kancheepuram District by incorporating correct survey No.437/66 as well as name of the petitioner in the petitioners properties revenue records namely 'A' Register, Town Survey Register and Town Survey Field Register etc., within the time framed fixed by this Court.

2. The Criminal Revision has been filed challenging the order passed in C.M.P.No.526 of 2017 on the file of the Judicial Magistrate, Tambaram dated 11.01.2018, thereby rejected the protest petition and accepted the final report filed by the first respondent in C.M.P.No.526 of 2017.

3. The case of the petitioner is that his father purchased a property comprised in Survey No.437/7 (part) to an extent of 35 cents out of 2 acre 91 cents by way of registered sale deed dated 27.05.1947 registered vide Document No.1056 of 1947 situated at Zameen Pallavaram Village. On the said purchase, he was issued patta in Patta No.1742. As per patta, survey No.437/66 for an extent of 29 cents by leaving 30 feet road on the eastern side as agreed in the sale deed. The



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street was named as 'Sadagopan Street'. Thereafter, his father constructed 10 shops and let out the same for tenants. He was obtained building plan on 05.02.1971 from the Pallavaram Municipality for construction of residential house in the first floor of the above said shops. He was granted planning permission in B.A.No.199/70-71. Thereafter, he constructed house and was residing there. Both the shops as well as the house were assessed to the property tax and the same were duly paid by the petitioners father. Thereafter, the said property was partitioned by the petitioners, since they are brothers. The said partition deed was registered vide Document No.1874 of 1985. After conversion of town survey, they were issued Town Survey Field Register, is Ward No.D, Block No.29. T.S.No.12 was assigned to their elder brother and the property in T.S.No.13, which was allotted in favour of the first petitioner and T.S.No.14, which was allotted to their younger brother and T.S.No.15, which was allotted to the second petitioner. They also changed electricity service connection and property tax assessment in their favour. They have been in continuous possession and enjoyment of the subject properties.

4. While being so, the respondents 6 to 10 claiming the said



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property as if their grandfather purchased the property comprised in survey No.437/9 had corrected their survey No.437/66 as 437/94 in the 'A' Register. It was not noticed by the petitioners so far and they came to know about the change of the survey numbers by the impugned order passed by the fourth respondent herein. On the strength of the patta issued in their favour and changed in the revenue records they disturbed the petitioners possession and enjoyment of the subject property. Therefore, the petitioners verified the revenue records and lodged complaint. However, it was not considered and as such, they were constrained to file a complaint under Section 156(3) of Cr.P.C to forward the same for enquiry before the learned Judicial Magistrate, Tambaram in C.M.P.No.526 of 2017 by an order dated 04.01.2017. The complaint was forwarded to the file of the first respondent in Criminal Revision for conducting enquiry and registration of FIR.

5. The learned Magistrate directed the first respondent in the criminal revision to investigate and register the FIR, immediately if any cognizable offence is made out. However, the first respondent conducted detailed enquiry, without registration of any FIR and submitted a report



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dated 17.04.2017, thereby concluded that the entire dispute between the petitioner and the private respondents are civil in nature and directed to approach the Civil Court for appropriate relief. On receipt of the closure report, the petitioner filed protest petition. On the protest petition, the learned Magistrate, without conducting any enquiry, simply accepted the report submitted by the first respondent and dismissed the protest petition by an order dated 11.01.2017 in C.M.P.No.526 of 2017. Only on receipt of the closure report filed by the first respondent in criminal revision, the petitioner came to know about the order impugned in the present writ petition dated 17.12.2015.

6. A perusal of the impugned order reveals that the sixth respondent one S.Ravi in writ petition and two others submitted representation before the fourth respondent viz., The Special Thasildar, Town Survey Scheme, Pallavaram Taluk, Kancheepuram District, for issuance of patta in their favour in respect of the land comprised in T.S.Nos.13, 14 and 15 (Survey No.437/94 admeasuring 00931 sq.mt situated at Word D, Block No.29, Zameen Pallavaram Village, Alandur Taluk, Kancheepuram District), which stood in the name of the



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petitioners. The fourth respondent, without even ordering notice to the petitioner, mechanically, referring to the documents which were submitted along with the application by private respondents herein, passed an order on 17.12.2015 itself. It is pertinent to mention that they submitted the application on 16.12.2015 and the impugned order passed by the fourth respondent on 17.12.2015, that too without ordering notice to the petitioners and without even conducting any enquiry.

7. On the strength of the said order, all the revenue records were corrected in their favour and they are disturbing the petitioners possession and enjoyment of the subject property. Therefore, the petitioners lodged a complaint and the same was not considered by the concerned police persons. Hence, the petitioners were constrained to file a petition under Section 156(3) of Cr.P.C. and by an order dated 04.01.2017, the learned Magistrate forwarded the said complaint to the first respondent in the revision under Section 156(3) of Cr.P.C. and directed to register the FIR and conduct investigation if any cognizable offence has made. Once the complaint was forwarded under Section 156(3) of Cr.P.C, the concerned police persons are duty bound to register



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the FIR and commence the investigation. In the case on hand, the first respondent in the criminal revision, without registering the FIR, conducted investigation and filed detailed report, thereby concluded that the revenue records stands in favour of the private respondents herein by the fourth respondent in the writ petition.

8. Later, the fourth respondent filed a counter in the writ petition stating that as per G.O.Ms.No.103 (Revenue SS.II (1) Department) dated 01.03.2007, empowers the Special Tahsildar (Natham Settlement) to correct only clerical error brought to the notice by the parties interested can be corrected at any time during or after the revenue follow up work after obtaining orders from the Settlement Officer, Chennai and after obtaining orders from the Director of Survey and Settlement, Chennai. The issue on the hand does not relate to any clerical error which could be corrected by the fourth respondent.

9. As per G.O.Ms.No.693 (Revenue Department) dated 24.07.1997, all the defects arising out of the issuance of patta by the Special Tahsildar (Natham Settlement) shall be corrected by the Revenue



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Divisional Officer through appeal provisions. When the fourth respondent had no power to correct the revenue records, the impugned order cannot be sustained and it is liable to be set aside.

10. That apart, on perusal of the impugned order, it is clear that no notice was issued to the petitioners and in a haste and hasty manner even on the very next day of the date of application, the fourth respondent had passed order, thereby issuing the patta in favour of the private respondents herein. It is a clear violation of principles of natural justice and it cannot be sustained as against the petitioners.

11. In view of the above, the impugned order dated 17.12.2015 passed in Na.Ka.No.2000/2015/A1 by the 4th respondent, is hereby quashed and the Writ Petition is allowed. The Revenue Divisional Officer, Tambaram, is directed to restore the revenue records in favour of the petitioners. If any grievance over the issuance of patta in favour of the petitioners, the respondents 6 to 10 are at liberty to file an appeal before the concerned Revenue Divisional Officer. The Revenue Divisional Officer, Tambaram is directed to conduct detailed enquiry



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after issuance of notice to the petitioners and the respondents 6 to 10 and pass orders on merits and in accordance with law within a period of six weeks from the date of receipt of the appeal. Consequently, connected miscellaneous petitions are closed. No costs.

12. In view of the above, the impugned order dated 11.01.2018 passed in C.M.P.No.526 of 2017 by the Judicial Magistrate, Tambaram, is also set aside. However, the petitioner in criminal revision is at liberty to lodge a fresh complaint subject to the result of the order passed by the concerned Revenue Divisional Officer before the concerned police persons if so advised. On the receipt of the complaint, the concerned police person is directed to deal with the complaint on merits and in accordance with law.

13. Accordingly, W.P.No.25706 of 2016 and CrI.R.C.No.459 of 2018 are allowed.

29.11.2022

Index : Yes/No
Internet : Yes
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To



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1. The Judicial Magistrate,
Tambaram.

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2. The District Collector,
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Kancheepuram.

3. The District Revenue Officer,
Office of the District Collector,
Kancheepuram District,
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Pallavaram Taluk,
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Town Survey Scheme,
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Pallavaram.

6. The Commissioner,
Pallavaram Municipality,
Pallavaram.

Copy to :

The Revenue Divisional Officer,
Tambaram.



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G.K.ILANTHIRAIYAN, J.

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