

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.32543 of 2014

S.Shanmugam

... Petitioner

Vs.

1. The Tahsildar,
O/o.The Tahsildar,
Egmore-Nungambakkam Taluk,
Spur Tank Road,
chepet, Chennai 600 031.
2. The District Collector,
Chennai District,
O/o. The District Collector,
Rajaji Salai,
George Town, Chennai 600 001

... Respondents

PRAYER: This Writ Petition filed under Section 226 of Constitution of India, pleased to issue a Writ of Mandamus directing the respondents 1 and 2 for cancellation of the Patta vide Patta No. C.A. No. 981/2009 dt 27.9.2009 issued by the 1st respondent measuring 1421 sq.ft. and issue a fresh Patta for 1630 sq.ft. after physical verification scrutiny and measurement as per the Sale Deed Document.

For Petitioner : Mr.S.Sundar
For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader

Order

This petition has been filed for issuance of writ of Mandamus directing the respondents 1 and 2 for cancellation of Patta issued by the 1st respondent measuring 1421 sq.ft. and issue a fresh Patta for 1630 sq.ft. after physical verification scrutiny and measurement as per the Sale Deed Document.

2. The case of the petitioner is that the petitioner had purchased the property comprising of land and building admeasuring an extent of 1960 sq.ft situated at plot no.15, new

door no.16, old door no.9, Jai Nagar, 9th Street, Arumbakkam, Chennai 600 106 and thereby he is the absolute owner of the said property. It is alleged by the petitioner that while applying for planning permission, it was confirmed that some area of poromboke land has been included in the Sale Deed and therefore, he had applied for patta for the said land immediately after the purchase and after great persuasion, the petitioner was able to obtain the patta. However, the petitioner and the residents of the locality were issued notice from the Office of the Tahsildar under Section 4 of the Tamil Nadu Public Premises of Unauthorised Occupants Act, 1975 for having encroached an extent of $\frac{3}{4}$ cents poromboke land and for immediate eviction by the Government and out of an extent of 1960 sq.ft, an extent of 330 sq.ft were taken away by the Government. It is the further allegation of the petitioner that at present his plot measures about 1630 sq.ft, whereas the patta was issued only for 1421 sq.ft, however the petitioner had valid and clear title deed in respect of the above said extent and against which, a legal notice was issued on 11.08.2014 to the respondents 1 and 2, who have received the notice and not initiated action for amending the patta according to the correct measurement i.e., 1630 sq.ft. Aggrieved by the same, the present petition is filed by the petitioner.

3. The learned counsel appearing for the petitioner submitted that it would suffice if this Court issues direction to the 1st respondent to issue a new patta after due verification and physical measurement in the presence of the petitioner as per the document.

4. Per contra, the learned Special Government Pleader appearing for the official respondents has drawn the attention of this Court to the counter affidavit and also submitted that if there exists any disputed question of title and any person required any modification in respect of any entry in the patta pass book, they shall make an application to the Tahsildar for the modification of the relevant entries in the patta pass book in terms of Section 10 of the Tamil Nadu patta Passbook Act. Instead of filing application under Section 10 of the said Act, straightaway filing this Writ Petition is not sustainable.

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

6. As per Section 10 of the Patta Passbook Act, any modification required in respect of any entry in the patta pass book already issued under Section 3, the aggrieved party should file application before the jurisdictional Tahsildar. Hence, this Court is inclined to grant liberty to the petitioner to file a fresh application before the 1st respondent for his relief

and further if any such application is received, the 1st respondent shall consider the same and pass appropriate orders as expeditiously as possible.

7. This Writ Petition is disposed of with the above observations. No costs.

Sd/-
Assistant Registrar

True Copy//

Sub Assistant Registrar

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To

1. The Tahsildar,
O/o.The Tahsildar,
Egmore-Nungambakkam Taluk,
Spur Tank Road,
Chepet, Chennai 600 031.
2. The District Collector,
Chennai District,
O/o. The District Collector,
Rajaji Salai,
George Town, Chennai 600 001.

+1cc to the Government Pleader, S.R.No.29703

W.P.No.32543 of 2014

BP[co]
NSK/14/06/2022