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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2022

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.17086 and 17518 of 2020
and
W.M.P.Nos.21151 and 21698 of 2020

Jeyasri ... Petitioner in WP.No.17086/2020
A.Govindasamy ... Petitioner in WP.No.17518/2020
vs.

- 1.The District Collector,
Chennai District.
- 2.The Revenue Divisional Officer,
Guindy, Chennai-32.
- 3.The Tahsildar,
Sholinganallur Taluk,
Chennai District.
- 4.D.Nirmala

5.G.Thirumoorthy ... Respondents (in both WPs)

Common Prayer: Writ Petitions are filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent in Na.Ka.No.106. /2019/B1, dated -.02.2019 (signed on 05.02.2019) and quash the same and consequently direct the 3rd respondent to restore the patta in the name of Petitioners' in respect of their properties situated at Pallikaranai Village, Tambaram Taluk, Kancheepuram District, comprised in S.No.100/7 part, Patta Nos:31690 and 18215, as per Patta New S.Nos.100/7A2 and 100/7A1 measuring an extent of 1339 sq.ft.

For Petitioner : Mr.L.Pachaiyappan
(in both WPs)

For R1 to R3 : Mr.P.Balathandayutham
Special Government Pleader
(in both WPs)

For R5 : Mr.V.Ramana Reddy
(in both WPs)



COMMON ORDER

These writ petitions have been filed to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent in Na.Ka.No.106. /2019/B1, dated -.02.2019 (signed on 05.02.2019) and quash the same and consequently, direct the 3rd respondent to restore the patta in the name of petitioners' in respect of their properties situated at Pallikaranai Village, Tambaram Taluk, Kancheepuram District, comprised in S.No.100/7 part, Patta Nos:31690 and 18215, as per Patta New S.Nos.100/7A2 and 100/7A1 measuring an extent of 1339 sq.ft.

2. The case of the petitioners are that the petitioner in W.P.No.17086 of 2020 owned property comprised in S.No.100/7 part under Patta No.31690 ad-measuring to an extent of 1306 sq.ft., situated at Pallikaranai Village, Tambaram Taluk, Kancheepuram District and the petitioner in W.P.No.17518 of 2020 owned property comprised in S.No.100/7 part under Patta No.18215 ad-measuring to an extent of 1339 sq.ft., situated at Pallikaranai Village, Tambaram Taluk, Kancheepuram District. The petitioners' purchased the said properties by way of Sale Deeds dated 28.06.2017 and 02.09.2002 registered vide Document Nos.6479 of 2017 and 4123 2002 respectively. While being so, on the instance of the 5th respondent, the 3rd respondent conducted enquiry to cancel the pattas on the basis of the judgment and decree passed in O.S.No.378 of 1997 on the file of the learned District Munsif at Alandur for permanent injunction in respect of the subject properties. That too without issuing any notice to the petitioners and without giving any opportunity of hearing to them, passed the impugned order. By the impugned order, cancelled the pattas issued in favour of the petitioners and cancelled all the sub division made in respect of the subject properties and ordered to issue patta in favour of the 5th respondent herein.

3. Though as against the order passed by the Tahsildar, Sholinganallur Taluk, there is an appeal remedy under Section 12 of the Tamil Nadu Patta Passbook Act, 1983, the impugned order challenged before this Court on the ground of violation of principles of natural justices. Therefore, the present writ petitions are very much maintainable under Article 226 of the Constitution of India.

4. On perusal of the counter affidavit dated 07.01.2022 filed by the 3rd respondent, revealed that originally the total extent of the property ad-measuring to an extent of 7 cents comprised in S.No.100/7, Pallikaranai Village, owned by Thayaramman wife of Natesa Naidu. Therefore, by the Sale Deeds dated 28.06.2017 and 02.09.2002 registered vide Document Nos.6479 of 2017 and 4123 of 2002, the petitioners purchased the



properties ad-measuring to an extent of 1306.5 and 1339 sq.ft from one Amsammal and Gajalakshmi. Based on the sale deeds, the petitioners were issued patta. The petitioners' purchased the subject properties in the following transactions:-

Document Number	Survey Number	Extent	Executant	Claimant
0911/1957 dated 10.04.1957	100/7	7 cents	Muniammal Vagaiyan	Thayaramman W/o Mr. Natesa Naidu
1170/1965 dated 23.04.1965	1007/	7 cents	Thayaramman W/o Mr. Natesa Naidu	Govindammal W/o Madurai Mudaliar
0395/1976 dated 09.06.1976	100/7	7 cents	Govindammal W/o Madurai Mudaliar	Gajalakshmi W/o Rajasekaran
0051/2001 dated 29.01.2001 POA	100/7	7 cents	Gajalakshmi W/o Rajasekaran	Jayaseelan S/o Parasuraman
5890/2003 dated 15.12.2003	100/7	1306.5 S.ft.	Gajalakshmi (Pr1) Jayaseelan (POA)	Amsammal
6479/2017 dated 28.06.2017	100/7	1306.5 S.ft	Amsammal	Mrs.Jeyasri Petitioner in W.P.No.17086/202 0
4123/2002 dated 02.09.2002	100/7 part	1339 S.ft	Gajalakshmi (Pr1) Jayaseelan (POA)	Govindasamy Petitioner in W.P.No.17518/202 0

5. While being so, the 5th respondent filed suit in O.S.No.378 of 1997 on the file of the learned District Munsif at Alandur for permanent injunction as against one Rajendran, Ranganathan, Ravi Chettiar and Gajalakshmi. The said suit was allowed on 10.11.2006. The petitioners' vendor filed suit in O.S.No.347 of 2008 on the file of the Principal District Munsif Court, Alandur for declaration declaring that the Sale Deed dated 01.04.1997 registered vide Document No.1587 of 1997 obtained by the 5th respondent as null and void and also to cancel the decree of permanent injunction granted in O.S.No.378 of 1997 dated 10.11.2006. The said suit was allowed by the exparte decree dated 26.04.2012. However, subsequently, the 5th respondent filed a set aside petition to set aside the exparte



decree and the same was allowed. Subsequently, the main suit itself was dismissed for default.

6. On receipt of the representation from the 5th respondent, the 3rd respondent passed the impugned order thereby cancelled the pattas issued in favour of the following persons for the following lands:-

Sl.No .	Survey Number	Extent	Name of the Registered holder
1	100/7A1	104 Sq.metres	A. Govindasamy S/o N.Arumugam
2	100/7A2	90 Sq.metres	Jayasri Wife of Vivekanandan
3	100/7B	300 Sq.metres	Rajeshkumar Willam son of D.William

7. Thereafter, the petitioner in W.P.No.17086 of 2020 also filed suit in O.S.No.28 of 2020 for declaration declaring that the sale deed dated 01.04.1997 registered vide document No.1587 of 1987 executed in favour of the 5th respondent herein is null and void and it is pending on the file of the Principal District Munsif Court, Alandur. That apart, the 5th respondent filed Writ Petition before this Court in W.P.No.30924 of 2018 to dispose his representations dated 14.09.2018 and 18.09.2018. This Court by an order dated 01.02.2019 directed the 3rd respondent herein to consider the representations of the 5th respondent, after issuance of notice to the other private respondents viz., the petitioners herein and after giving opportunity of hearing to them, pass orders on merits and in accordance with law.

8. Thereafter, the 5th respondent made another representation dated 05.01.2019. On the said representation, the 3rd respondent conducted enquiry, without issuing any notice to the petitioners and other patta holders in respect of the subject lands and without giving opportunity of hearing to them, passed the impugned order.

9. On this sole ground, the impugned order cannot be sustained and it is liable to be quashed. Accordingly, the impugned order in Na.Ka.No.106. /2019/B1, dated -.02.2019 (signed on 05.02.2019) is quashed. The representation submitted by the 5th respondent dated 05.01.2019 is remanded back to the 3rd respondent for fresh consideration. The 3rd respondent is directed to issue notice to the petitioners, 5th respondent and other counter parties, if any and after giving opportunity of hearing to them, pass orders on merits and in accordance with law. It is made clear that all the parties concerned are at



liberty to submit all the relevant documents for consideration. It is also made clear that now the petitioners filed suit in O.S.No.28 of 2020 and it is pending on the file of the Principal District Munsif Court, Alandur, without any interim order.

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10. In the result, the writ petitions are allowed. Consequently, the connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

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To

- 1.The District Collector,
Chennai District.
- 2.The Revenue Divisional Officer,
Guindy, Chennai-32.
- 3.The Tahsildar,
Sholinganallur Taluk,
Chennai District.
- 4.The Principal District Munsif Court,
Alandur.

+2cc to Mr.A.Ramalingam, Advocate, S.R.No.2621,2622
+2cc to Mr.V.Ramana Reddy, Advocate, S.R.No.2572,2573
+1cc to the Government Pleader, S.R.No.3013,3050

W.P.Nos.17086 and 17518 of 2020

MT (CO)
SB (21/02/2022)