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W.P.No.32406 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No.32406 of 2022

B.Dorai Raj

... Petitioner

Vs.

1. The Tahsildar,
Avadi Taluk,
Pothur Village,
Tiruvallur District 602 003.

2. The Firka Surveyor,
Avadi Taluk,
Pothur Village,
Tiruvallur District 602 003.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first respondents herein to consider the application No.2022/0105/01/450238 dated 31.10.2022 made by the petitioner and further direct the second respondent to conduct survey in the manner known to law.

For Petitioner : Ms.Meena Annamalai
For Respondents : Mr.U.Bharanidharan
Additional Government Pleader

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Mandamus to direct the first respondents herein to consider the application No.2022/0105/01/450238 dated 31.10.2022 made by the petitioner and



W.P.No.32406 of 2022

further direct the second respondent to conduct survey in the manner known to law.

2. The case of the petitioner is that, originally the property comprised in Survey No.210/2, was initially obtained by one Smt.C.B.Prasad. The said C.B.Prasad gave the Power of Attorney to sell a portion of the aforesaid land to one Mr.R.Krishnamurthy and the sale was effected by a Deed of Absolute Sale, dated 27.03.1989, vide Doc.No.2278 of 1989 on the file of Sub-Registrar Office, Ambattur. Thereafter, the petitioner had purchased the land from the said Krishnamurthy, comprised in S.No.210/2A1A1A1A, measuring an extent of 2400 sq.ft., situated in Avadi Taluk, Pothur Village, Thiruvallur District, by way of a registered Sale Deed, dated 11.06.1991, vide Doc.No.5857 of 1991, on the file of Sub Registrar Office, Ambattur. Subsequent to the purchase of the aforesaid property, the petitioner is in continuous possession and enjoyment of the said land. In order to obtain Patta in his name, the petitioner made an application dated 31.10.2022 before the first respondent. However, the said application was rejected on 20.11.2022 on the ground that the extent was at variance with the registered document, thereby the respondents refused to grant Patta. The grievance of the petitioner is that, the said impugned order is not sustainable,



W.P.No.32406 of 2022

as the petitioner possessed valid title to an extent of 2400 sq.ft., even then, if there is variation in the extent of land, it has to be conferred in favour of the petitioner and the impugned order is liable to be interfered. Though the petitioner is not challenging the impugned order, however, the impugned order passed by the first respondent is not sustainable. Hence, the present Writ Petition.

3. The learned counsel for the petitioner reiterated the grounds raised in the Writ Petition and prayed for allowing this Writ Petition.

4. The learned Additional Government Pleader appearing for the respondents submitted that, there was variation in the extent of the land to which the title is possessed by the petitioner and the actual land available at site. In view of the above, the petitioner's application was rejected.

5. Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

6. The facts in the present case are not in dispute. Admittedly, the



W.P.No.32406 of 2022

petitioner purchased the aforesaid land from said Krishnamurthy, comprised in S.No.210/2, measuring an extent of 2400 sq.ft, situated in Pothur Village, Avadi Taluk, Tiruvallur District. This Court perused the rejection order passed by the first respondent. A perusal of the rejection order reveals that the extent of land at site was at variance with the title deed, thereby the petitioner's application was rejected. Though the petitioner sought for mandamus to consider his representation, this Court is inclined to interfere the impugned order dated 20.11.2022.

7. Accordingly, the Writ Petition is allowed and the impugned order is set aside and the matter is remanded to the respondents with a direction to measure the aforesaid land in presence of the petitioner, and for the available extent of land, the respondents are bound to grant Patta to the petitioner. Insofar as the remaining extent of land which is at variance, is concerned, the petitioner is directed to work out the remedy in the manner known to law. The aforesaid exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order. No costs.

01.12.2022

Index : Yes / No
Speaking order: Yes/ No

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W.P.No.32406 of 2022

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WEB COPY



W.P.No.32406 of 2022

M.DHANDAPANI, J.

jd

W.P. No.32406 of 2022

01.12.2022