



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.02.2022

CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.29624 of 2017
and W.M.P.Nos.31905 & 31906 of 2017

1.S.K.Abdul Rahman
2.K.M.Shameen Rahman

...Petitioners

..Vs..

1. The Secretary,
Government of Tamil Nadu,
Registration Department,
Fort St.George,
Chennai - 600 009.
2. The Inspector General of Registration,
No.100, Santhome High Road,
Chennai - 28.
3. The Tahsildar,
Sholinganallur Taluk, Kancheepuram District,
No.1, Rajiv Gandhi Salai,
1st Cross Street, Sholinganallur,
Chennai - 600 119.
4. The Sub-Registrar,
Neelangarai Division,
No.1/71, 1st Floor Kazura Garden,
2nd Street, ECR, Neelangarai,
Chennai - 600 041.

5. Mrs.A.R.Juhurnisha

...Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 3rd and 4th respondents relating to the patta proceedings dated 01.08.2001 in respect of 134, Neelangarai Village, Tambaram Division, Kancheepuram District and further direction may be issued to 3rd and 4th respondents to cancel the patta granted in favour of the 5th respondent, ULT Case No.309/401 (C.61 0331956), which was obtained illegally by the 5th respondent, in respect of my property, without any intimation to the petitioner.



WEB COPY

For Petitioner : Mr.S.Haja Mohideen Gisthi

For Respondents : Mr.R.Vigneshwaran
Government Advocate
for R1, R2 & R4

Mrs.C.Meera Arumugam for R3

No appearance for R5

ORDER

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus, to call for the records of the 3rd and 4th respondents relating to the patta proceedings, dated 01.08.2001, in respect of 134, Neelangarai Village, Tambaram Division, Kancheepuram District and further direction may be issued to 3rd and 4th respondents to cancel the patta granted in favour of the 5th respondent, ULT Case No.309/401 (C.61 0331956), which was obtained illegally by the 5th respondent, in respect of the petitioner's property, without any intimation to the petitioner.

2. The brief facts of the case are as follows:

The petitioners are the owners of the agricultural property measuring an extent of 6 grounds (14,640 sq.ft.), along with a house in Neelangarai Village, under registered sale deed in the Sub-Registrar's Office, Neelangarai, and they are in the possession of the said property. In the year 2000, they have renovated the house and constructed a new drive way and obtained three phase EB Service Connection NO.218-01-456. The petitioners were paid all taxes up-to-date. He further submits that in the year 2013, the petitioners temporarily shifted their residence to Nungambakkam and they were informed that some encroachers have entered into their building and doing all acts of misuse and also tried to transfer the electricity connections in their name. Further, the petitioners came to know that the electricity connections have been transferred in the name of the 5th respondent and patta also granted illegally without any enquiry. Hence the petitioners have filed a writ petition in W.P.No.27755 of 2017, whereby this Court passed a detailed order, directing the Electricity Board to cancel the electricity service connection issued to the 5th respondent and transfer the same in favour of the petitioner.

3. In this background, the learned counsel appearing for the petitioners would submit that the 3rd and 4th respondents issued patta in favour of the 5th respondent, dated 01.08.2001. Further he submits that the 5th respondent has filed a suit before the trial Court in O.S.No.226 of 2005, for the purpose of



WEB COPY

permanent injunction and the same came to be dismissed as withdrawn by the trial Court with the following order:

"18. The plaintiffs has not pleaded anywhere, in his memo that they wanted to file fresh suit for the same reliefs on the same cause of action.

In view of the above discussions and the reasons given therein, the considered view of this Court is that the plaintiffs had abused the process of court and wasted the court hours for the past 16 years. Apart from that, the plaintiffs are not entitled to file any fresh suit for the same reliefs on the same cause of action and also they are liable to pay cost to the defendants under Section 35 (a) of CPC and they are not entitled for the return of the court fees.

19. In the result, this Court is inclined to grant permission to withdraw the suit on the following conditions:-

1.that the plaintiffs are not entitled to file any fresh suit for the same reliefs on the same cause of action;

2.that they have to pay cost of Rs.3000/- under Section 35 (a) CPC to the defendants.

3.that they are not entitled for the return of the court fees.

4.that the plaintiffs are permitted to withdraw the suit.

Therefore, he submits that the petitioner is the owner of the property and in this regard, he gave a representation for cancellation of the patta.

4. Therefore, this Court directs the respondents 3 and 4 to consider the petitioner's application, taking into consideration of the order passed in trial Court in O.S.No.226 of 2005, dated 15.04.2021 and dispose of the petitioners representation, within a period of twelve weeks from the date of receipt of a copy of this order.

5. With the above direction, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar



1. The Secretary,
Registration Department,
Fort St.George,
Chennai - 600 009.
2. The Inspector General of Registration,
No.100, Santhome High Road,
Chennai - 28.
3. The Tahsildar,
Sholinganallur Taluk, Kancheepuram District,
No.1, Rajiv Gandhi Salai,
1st Cross Street, Sholinganallur,
Chennai - 600 119.
4. The Sub-Registrar,
Neelangarai Division,
No.1/71, 1st Floor Kazura Garden,
2nd Street, ECR, Neelangarai,
Chennai - 600 041.

+1cc to Government Pleader SR. Nos.8052, 7674

W.P.No.29624 of 2017
and W.M.P.Nos.31905 & 31906 of 2017

MG (CO)
PR (11/03/2022)