



W.P.No.2193 of 2019

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2023

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU
AND
THE HONOURABLE Mrs.JUSTICE N.MALA

W.P.No.2193 of 2019
and
WMP.Nos.2435 and 2437 of 2019

Garage Owners Welfare Association
rep.by its Secretary Mr.Balaraman
11-G, 28th Cross Street,
Besant Nagar, Chennai 600 090.

.... Petitioner

vs.

1.Executive Engineering and Administrative Officer,
Besant Nagar Division, Tamil Nadu Housing Board
No.48, Dr.Muthulakshmi Salai, Adyar, Chennai 600 020.

2.The Tahsildar,
Velachery Taluk,
Taramani, Chennai 600 113.

3.The Chief Engineer,
Tamil Nadu Housing Board,
Nandanam, Chennai 35.

4.The Revenue Divisional Officer,
Egmore, Chennai.
(R4 suo motu impleaded vide order dated 04.09.2023
in WP.No.2193/2019)

.... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records and quash the letter dated 21.12.2017 in Memo NO.TP/1/11402/2017 and 27.12.2017 in Letter No.HS/2745/13-1 of the 1st respondent as being invalid in law.

For Petitioner : Mr.Nithyaesh
For RR1 and 3 : Mr.D.Veerasekaran for Mr.T.Pradeeppraja
For RR2 & 4 : Mr.Stalin Abimanyu
Additional Government Pleader

ORDER

This writ petition has been filed to issue a Writ of Certiorari to call for the records and quash the letter dated 21.12.2017 and 27.12.2017 of the 1st respondent as being invalid in law.

2. The case of the petitioner Association is that they are representing the owners of the garages on 28th Cross Street, Besant Nagar, Chennai 600 090,. They had obtained an Orientation Sketch in their favour from the Tamil Nadu Housing Board (hereinafter referred as 'TNHB') and on request of the petitioner Association, pattas also came to be issued in their favour. On 21.12.2017, the TNHB had issued a memo to cancel the orientation sketch issued to the petitioner Association. In pursuance of the same, the 1st respondent requested the Tahsildar vide proceedings dated 27.12.2017 to cancel the patta issued in favour of the petitioner Association. Aggrieved by



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the impugned above mentioned memo and letter, the petitioner Association has sent a representation to the 1st respondent. Since no response is forthcoming, the petitioner is constrained to approach this Court by filing this writ petition.

3. The learned counsel appearing for the petitioner submitted that the proceedings under the Patta Passbook Act is also pending before the concerned authorities and further no notice had been sent to the owners of the Garages before deciding to cancel the Orientation Sketch and the Patta.

4. Respondents 1 to 3 filed counter affidavit. In the counter affidavit, it is stated that the Board has formulated 'South Madras Neighbourhood Scheme'. As per the said Scheme, the Board has constructed 13 nos. of garages and allotted to general public and thereby executed Sale Deeds for garages in favour of allottees in the year 1994. The Board has issued the Orientation Sketch only on 01.04.2013, where the Garage area is inadvertently mentioned as 9,474 sq.ft instead of 2990 sq.ft and obtained joint patta in respect of 9,474 sq.ft. Hence, the Board sent a letter to the 2nd respondent to cancel the patta.

5. The Additional Government Pleader appearing for the 1st respondent



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submitted that the contention of the petitioner Association that no notice had been sent to them before deciding to cancel the orientation sketch and patta, is not correct. Proper notices have been sent to the respective garage owners, however they failed to appear before the authorities for enquiry.

6. Heard the learned counsel for the petitioner, learned Additional Government Pleader appearing for the 1st respondent and the learned standing counsel appearing for the official respondents.

7. When the matter was taken up for hearing on 04.09.2023, it was represented by the learned Additional Government Pleader that on the basis of the impugned orders, proceedings were sent to the Revenue Divisional Officer, Egmore. The RDO has passed an order cancelling the patta after providing due opportunity to the petitioner Association. However it was represented by the learned counsel for the petitioner that no notice, prior to cancellation, has been served on the petitioner Association. On such representation by learned counsel, this Court had *suo motu* impleaded the 4th respondent and directed to file affidavit stating as to whether opportunity was given to the petitioner Association.

8. Today, the 4th respondent has filed the additional counter affidavit. It



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is stated that Elliots Beach Flat Owners Association, who are allottees under the said Scheme, had filed a petition before the District Revenue Officer, Chennai, by stating that there are encroachment on their land and requested to take necessary action to remove encroachments and to cancel the patta. On receipt of the above petition, after issuing notices to the petitioner Association, the enquiry was fixed on various dates and conducted. Hence, it is the stand of the official respondents that adequate opportunity was given to the petitioner Association to prove their rights on the subject land by the Revenue Divisional Officer. Since the petitioner not appeared for enquiry, the RDO has passed an order by strictly following the due procedure under the Patta Pass Book Act.

9. This Court after considering the rival submission and facts of the case, is of the view that though notice was served on the petitioner Association, they have not appeared for enquiry. Therefore, the Revenue Divisional Officer has passed an order cancelling the patta. If the petitioner Association is aggrieved by the order of the RDO, they are always at liberty to avail efficacious remedy by filing revision petition before the District Revenue Officer, Chennai, but without exhausting the said remedy, the petitioner Association approached this Court by filing the present writ petition. In our



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considered view, this Writ Petition cannot be entertained in view of the alternate efficacious remedy available to the petitioner. The petitioner Association is at liberty to file revision petition before the District Revenue Officer. The DRO, for the purpose of limitation, can exclude the period when the matter was pending before the High Court and pass appropriate orders.

10. This writ petition is disposed of with the above terms. No costs. Consequently connected miscellaneous petitions are closed.

(J.N.B., J.) (N.M., J.)
08.12.2023

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Index : Yes / No

Internet : Yes / No

To:

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