



W.P. No. 12678 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2023

CORAM

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN

AND

THE HON'BLE MR. JUSTICE K. RAJASEKAR

W.P. No. 12678 of 2018

&

W.M.P. No. 14809 of 2018

M. Selvaraj ..Petitioner

Vs.

1. The Commissioner,
Tambaram Municipality,
Tambaram, Chennai 600 045.
2. The Special Tahsildar,
Urban Land Tax Project,
Krishnanagar, Chennai 600 059.
3. The Chennai Metropolitan
Development Authority,
Rep. by its Member Secretary,
Thalamuthu Natarajan Building,
Egmore, Chennai 600 008.
4. M. Vijayalakshmi

(R4 impleaded vide order dt.24/02/2021



W.P. No. 12678 of 2018

made in W.M.P. NO.4292/2019 in
W.P. No. 12678/2018 by MSNJ, AANJ)

..Respondents

WEB COPY

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the proceedings of the 1st respondent dated 04.05.2018 made in Na.Ka.No.2746/2013/F2 and quash the same and consequently direct the 2nd respondent to correct the entry in Town Survey as per the Old Revenue Records in respect of the petitioner's land comprised in Old Survey No. 15/2 and New Survey Nos. 15/3 & 4 of Selaiyur Village, Tambaram Taluk, Kancheepuram District.

For Petitioner :: Mr.S. Thirumavalavan

For Respondents :: Mr.P. Srinivas for R1
Mr.A. Selvendran,
Special Govt. Pleader for R2
Mr.V. Sudalaiselvan for R3
Mr.A.E. Ravichandran for R4

O R D E R

(Order of the Court was made by **S. Vaidyanathan,J.**)

The writ petition is filed challenging the proceedings of the 1st respondent dated 04.05.2018 made in Na.Ka.No.2746/2013/F2 and quash the same and consequently direct the 2nd respondent to correct the entry in



W.P. No. 12678 of 2018

Town Survey as per the Old Revenue Records in respect of the petitioner's land comprised in Old Survey No. 15/2 and New Survey Nos. 15/3 & 4 of Selaiyur Village, Tambaram Taluk, Kancheepuram District.

2. The issue in the present writ petition pertains to alleged encroachment of public pathway.

3. The case of the petitioner is that the property measuring to an extent of 8882 sq.ft. of land comprised in Old S.No.15/2, Selaiyur Village, Tambaram Taluk, Kancheepuram District had been purchased by him during the year 1993 and the sale deed was also duly registered before the Registration Authorities. The Revenue Authorities had also mutated the revenue records and issued patta in respect of the said property. The grievance of the petitioner is that due to wrong entry in the Town Survey Records, the authorities have directed the petitioner to vacate the same on the ground that it belongs to the Government and that a 100 feet road exists. According to the petitioner, though it is claimed that there exists a 100ft road in his property, it is not so. It is no doubt true that a road abuts the house of the petitioner. He would submit that the entire revenue records



W.P. No. 12678 of 2018

show that the property belongs to the petitioner and since it is a patta land, the Government cannot take over the property and lay road in the property unless the same is acquired in accordance with law.

4. However, the contesting respondents would submit that actually there exists a 100ft road and the petitioner has encroached upon the same.

5. To resolve the issue and to find out whether encroachment has been made by the petitioner, an Advocate Commissioner was appointed by this Court by order dated 21.02.2023 and she has also filed her report along with photographs. The Advocate Commissioner is present in Court today and her presence is hereby recorded.

6. Heard both sides.

7. A perusal of the "A" Register shows that the petitioner has got patta to the property and possession vests with the petitioner. However, this has been refuted by the 2nd and 4th respondents.

8. Since there appears to be a dispute over the title of the property, the parties will have to work out their remedy only before the Civil Forum and a writ petition may not be maintainable.



W.P. No. 12678 of 2018

WEB COPY 9.

Mr.S. Thirumavalavan, learned counsel for the petitioner would submit that he has already approached the Civil Court, but the District Munsif Court, Tambaram, had returned the papers stating that it does not have jurisdiction to entertain the matter and the remedy lies elsewhere.

10. As the issue involves dispute over title of the property in question, the parties will have to work out their remedy only before the Civil Forum and it is open to the petitioner either to re-present the papers or in case, the papers are not available, may file a fresh suit and pursue his remedy in accordance with law. Status quo, as on date, to be maintained, for a period of 15 days from the date of receipt of a copy of this order.

11. The writ petition stands dismissed with the above direction. No costs. Connected C.M.P. is closed.

(S.V.N.J.) (K.R.S.J.)

nv

28.07.2023



W.P. No. 12678 of 2018

To

WEB COPY

1. The Commissioner,
Tambaram Municipality,
Tambaram, Chennai 600 045.
2. The Special Tahsildar,
Urban Land Tax Project,
Krishnanagar, Chennai 600 059.
3. The Chennai Metropolitan
Development Authority,
Rep. by its Member Secretary,
Thalamuthu Natarajan Building,
Egmore, Chennai 600 008.

S. VAIDYANATHAN,J.

AND

K. RAJASEKAR,J.



WEB COPY



W.P. No. 12678 of 2018

nv

W.P. No. 12678 of 2018

28.07.2023