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WP.No.9656 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2024

CORAM

**THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR**

**WP.No.9656 of 2024**  
**and W.M.P.Nos.10686 & 10687 of 2024**

S.Swamynathan

.. Petitioner

Versus

1. The District Revenue Officer  
Singaravelar Maligai  
Office of the Collector, Chennai – 600 001
2. The Revenue Divisional Officer  
Central Chennai Division  
Anna Nagar West Extension  
Chennai – 600 101
3. The Revenue Tahsildar  
Aynavaram Taluk, Chennai

4. R.Gopal

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 29.02.2024 made in Na.Ka. J5/21079/2023 passed by the 1st respondent confirming the impugned order dated 28.08.2023 made in Se.Mu.Na.Ka.No.A2/3223/2023 passed by the 2nd respondent quash the same and consequently direct the respondents 1 to 3 to restore patta No.671 in petitioner name in respect of the subject property measuring 20 cents comprised in Old S.F. Nos.9/1 and 9/2 corresponding to T.S.No.30, Block No.3, Ganesh Nagar, Kolathur Village, Chennai as it stood prior to the orders impugned.



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For Petitioner : Mr.N.Manokaran  
For Respondents : Mr.P.Sathish for R1 to R3  
Additional Government Pleader  
Mr.V.Chandrasekaran for R4

### **ORDER**

This writ petition is filed challenging the order dated 29.02.2024 made in Na.Ka.J5/21079/2023 passed by the 1st respondent confirming the impugned order dated 28.08.2023 made in Se.Mu.Na.Ka.No.A2/3223/2023 passed by the 2nd respondent, quash them and consequently direct the respondents 1 to 3 to restore patta No.671 in petitioner's name.

2.It is the case of the writ petitioner that the subject property was owned by the petitioner's mother by virtue of oral sale in the year 1972. The petitioner was continued to be in possession of the property, however, in the year 1986, one Amirtham and others made an attempt to occupy the above property. One Raghavan and 15 others filed a writ petition in W.P.No.13987 of 1989 against the petitioner and Commissioner of Chennai Corporation, however, in the writ petition, interim injunction granted and later it got vacated and directed the parties to approach the competent civil Court. The said Raghavan filed a suit in O.S.No.3430 of 1991 on the file of learned VIII Assistant City Civil Court for declaration that an extent of 7248 sq.ft., on the southern side of the layout



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plan LPDM/DTP 57/74 as a common park for recreation of the residents/owners of the flat in Ganesh Nagar, Kolathur, Madras-9. The said suit was dismissed on 29.01.1999 and appeal in A.S.No.101 of 1999 was also dismissed. Second Appeal filed before this Court in S.A.No.1321 of 2004 was also dismissed by the judgment and decree dated 21.10.2010. Again Raghavan and others filed a writ petition in W.P.No.21648 of 2003 before this Court with a direction to the officials not to grant patta in respect of the 20 cents, the same was also dismissed on 09.12.2023. In the meanwhile, the petitioner made an application for issuance of patta to the Tahsildar, Puraswalkam and thereafter, in the year 2012, patta was issued in favour of the petitioner.

3. Thereafter, once again another suit is filed in O.S.No.4956 of 2017 before learned VIII Assistant City Civil Court for permanent injunction which also dismissed on 09.04.2021. The petitioner has filed a writ petition in W.P.No.19796 of 2022. This Court, by order dated 05.08.2022, directed to provide necessary police protection to the subject property for survey. Thereafter, survey has been fixed as per the Order of this Court. now, based on the complaint given by the fourth respondent, the Secretary of Ganesh Nagar Residents Welfare Association, patta has been cancelled by the impugned order holding that the decree and judgments of the Civil Court is not



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registered. Hence, this writ petition.

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4. The DRO/first respondent filed a status report. It is according to them, the petitioner claims right over the property without any document. The petitioner is not in possession of any document for having purchased the said property from the registered owner. Further, the petitioner has not produced any document to show that they have purchased the property. Except taking the above stand, various Court orders have been extracted. This Court is of the view that the same is not required.

5. The fourth respondent has filed a counter stating that the subject property forming a total extent of 3 acres and 11 cents was sold under the registered Doc.No.3138/1975 on the file of SRO, Sembium. Thereafter, layout was formed and two plans were available. It is submitted that in the Civil Court, in the absence of clear cut evidence on the nature of approval granted declined to declare the area of acquisition as park. Hence, according to them, irrespective of Civil Court decree and judgments, the properties have been earmarked for public purpose. The petitioner has not challenged the sale deed of the year 1975. The writ petition in W.P.No.5832 of 2011, by order dated 21.06.2011 has elaborately dealt about the rights of the petitioner. Hence,



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opposed the writ petition.

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6. Mr.N.Manokaran, learned counsel for the petitioner vehemently submitted that the impugned order has been passed mainly on the ground that though the Civil Court as held in favour of the petitioner, the decree have not been registered under Section 23 of the Registration Act. Therefore, as the petitioner is not in possession, the patta issued in the year 2012 has been cancelled. It is the contention that the then office bearers of the fourth respondent has filed a suit in OS.No.3430 of 1991 on the file of learned VIII Assistant City Civil Court for declaration that an extent of 7248 sq.ft., on the southern side of the layout plan LPDM/DTP 57/74 as a common park for recreation of the residents/owners of the flat in Ganesh Nagar, Kolathur, Madras-9. In the above suit, specific issues have been framed and decided against the fourth respondent association. The appeals in A.S.No.101 of 1999 and S.A.NO.1321 of 2004. The Trial Court has considered the Ex-A5, Layout Plan and held that the land is not allotted to the park. In the first appeal, it is clearly held that the first respondent/petitioner is in enjoyment of the property for more than 12 years. The judgment has reached finality. Thereafter, after prolonged legal battle, the patta has been issued to the petitioner in the year 2012. However, now, patta has been cancelled by the official respondent at the



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instance of the fourth respondent. Hence, seeks to allow this writ petition.

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7. By consent of both parties, this writ petition is taken up for final disposal. Heard both sides and perused the materials placed on record.

8. On perusal of the order issuing the patta in favour of the writ petitioner, it is clearly held that though no title is established by the first respondent/petitioner, since, he has been in possession for more than 12 years as per B.S.O.31(7) and Government Order 1113/1937 dated 31.05.1937, patta has been issued. Thereafter, it appears that the Inspector of Police, V-4 Rajamangalam Police Station on 26.01.2022 has passed a restraint order against the writ petitioner which has been challenged before this Court in W.P.No.19796 of 2022. This Court, by order, dated 05.08.2022 has directed the police to grant necessary police protection. Thereafter, once again the contempt petition has been filed, at the time, the police officials agreed to give police protection to fix the boundaries. The petitioner has also approached the Ombudsman, Tamil Nadu Local Bodies Ombudsman, Guindy, Chennai, wherein, order was passed directing the Commissioner and Zonal Officer, Chennai City Corporation to enquire and effect sub division. However, no at the instance of the fourth respondent, the patta has been cancelled on the



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ground that the possession has not been established by the petitioner.

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9. It is relevant to note that finality of the order is sought to be unsettled by giving representation before the revenue authorities. When the Civil Court has decided the issues by framing necessary issues with regard to the possession and also rights of the association namely the fourth respondent association and held that the property was never allotted a a park or open space and concluded that the petitioner is in possession for more than 12 years, now the application has been given by other person, member of association to cancel the patta issued in the year 2012. The impugned order is passed mainly on the ground that writ petitioner has not established his possession and also he has not registered the decree of the Civil Court. It is relevant to note that if such application or orders are given credence, there will be no end for the finality of orders. The fourth respondent Association has lost the battle upto the Second Appeal and the matter is reached finality. After thorough discussion and consideration of the documents, the Trial Court and the first appellate Court had come to the conclusion that the said property was never allotted as a park and the first appellate Court has also held that the petitioner is in possession for more than 12 years. Having realised that the petitioner is in possession for more than 12 years, the Tahsildar, Purasawalkam, by invoking



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B.S.O.31(7) and Government Order 1113/1937 dated 31.05.1937, patta has been issued. Now, the same has been cancelled merely at the instance of the fourth respondent, thus, this Court is of the view that the impugned order cannot be permitted in the eye of law.

10. As long as the civil courts decree is holding the field, on which patta is also issued in the year 2012, the same issue cannot be re-agitated by one way or other in filing various applications. If such trend is entertained by the Courts, there cannot be any finality in the order and every settled matter can be reopened at any time by filing one application or other. Thus, the impugned order cannot be sustained in the eye of law.

11. It is relevant to point out that Full Bench of this Court in the case of *Ramaraju vs. The State of Tamil Nadu* reported in 2005 (2) CTC 741, wherein, in paragraph 38 (9) has held as follows:

"38

...

(9) *If any Civil Courts decree or interim order is holding the field, obviously, no action can be taken, unless and until such a decree or interim order is set aside or vacated in a manner known to law."*



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12. Such being a position, when the Civil Court decree has reached finality and binding on the fourth respondent association and the Greater Chennai Corporation, who are also party to the proceedings, now, the revenue authority taking contrary stand other than the concluded judgment between the parties, the same cannot be sustained in the eye of law.

13. Accordingly, the impugned orders stand quashed and the patta stands restored in favour of the petitioner. In view of the above, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No  
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Neutral Citation : Yes/No



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**N. SATHISH KUMAR, J.**

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To,

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