



W.P.No.24646 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2024

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

AND

THE HONOURABLE Mr.JUSTICE P.DHANABAL

W.P.No.24646 of 2021 and
WMP.Nos.25931 and 25933 of 2021

G.Thajudeen

.... Petitioner

vs

1. The District Collector,
District Collector Office,
Chengalpet District.

2.The District Revenue Officer,
Chengalpet District.

3.The Revenue Divisional Officer,
Chengalpet,
Chengalpet District.

4.The Tahsildar,
Chengalpet Taluk Office,
Chengalpet District.

5.The Block Development Officer/Commissioner,
Kattankolathur Panchayat Union,
Kattankolathur, Chengalpet Taluk,
Chengalpet District.

.... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari Call for the records from the office of the second respondent and quash the impugned order passed by the second respondent herein dated 11.09.2021 vide Na.Ka. 15010/ 2018 / A4.

For Petitioner : Mr.S.Sakthivel
For R1 to 4 : Mr.A.Selvendran
Special Government Pleader
For R5 : Mr.L.S.M.Hasan Fizal
Additional Government Pleader
For Proposed respondent: Mr.M.Vijayakumar

ORDER

(Order of the Court was made by P.Dhanabal,J.)

This Writ Petition has been filed by the petitioner to issue a writ of Certiorari to call for records from the office of the 2nd respondent, who passed the impugned order dated 11.09.2021 and quash the same.

2. According to the petitioner, he is the absolute owner of the property in New S.F.No.94/1C, Patta No.2052, to an extent of 1800 sq.ft and another extent of 1202 sq.ft in patta No.2877, of the same survey number and one another extent of land in S.F.No.94/1C2 . The said properties were purchased by the petitioner from Mrs.K.Shanthi wife of N.Kuppusamy through her



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power of attorney viz., Mrs.Amudha, through Sale Deeds in the year 2013.

The properties are classified as 'Nanjai'. After his purchase, the properties were subdivided and separate pattas were issued in the name of the petitioner through order dated 19.12.2011. While such being the position, the Priya Nagar Association gave a complaint against many persons, including the petitioner, as if they encroached the properties which were given to the panchayat through Gift Deed for the public purposes, namely, streets, park and other public purposes. Based on the complaint, the 3rd respondent conducted enquiry and cancelled the patta through order dated 28.06.2018. Thereafter, the petitioner preferred revision before the 2nd respondent under Section 14 of the Patta Passbook Act, on 28.07.2018. In the meantime, the respondents 3 to 5 issued direction vide order dated 03.10.2019, to evict the petitioner from the properties. As against the same, W.P.No.28632/2019, to dispose of the revision and W.P.No.32564/2019, challenging the order of the 5th respondent from evicting him from the properties, were filed by the petitioner and the same were pending.

3. The 2nd respondent passed the impugned order dated 11.09.2021, dismissing the revision petition filed by the petitioner. In the impugned order it



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was stated that the petitioner had encroached the properties belonging to the 5th respondent Panchayat. Aggrieved by the same, the petitioner has filed this Writ Petition.

4. No counter affidavit was filed by the respondents.

5. The learned counsel for the petitioner would contend that originally the petition mentioned properties were purchased by the petitioner through Sale Deeds for valuable consideration in the year 2013 and he also got patta in his name. He is in possession and enjoyment of the properties. While so, some of the persons from Priya Nagar Association gave a complaint. Based on the complaint, 3rd respondent conducted enquiry and cancelled the patta. The said cancellation of patta was challenged through revision before the 2nd respondent and the 2nd respondent also dismissed the revision petition through order dated 11.09.2021. It is further contended that the 2nd respondent failed to consider that the Gift Deed, had not specified the extent of lands which was given in each survey numbers. The petitioner's properties are not coming under the Priya Nagar layout as they are different properties, which are no way connected to the petitioner's property.



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5.1. It is further submitted that the 2nd respondent on the presumption that the petitioner is an encroacher, had passed the impugned order. The petitioner is the lawful purchaser of the properties through Sale Deeds dated 11.11.2013 and 04.10.2013 respectively. Already, the Tahsildar of Chengalpet had issued patta after following the procedure and subdivision was also made. The 2nd respondent without verifying the material documents, dismissed the revision. Therefore, the order passed by the 2nd respondent is liable to be quashed.

6. The learned Special Government Pleader appearing for the official respondents would contend that the properties belongs to the respondent Government through Gift Deed for the use of public purpose. The petitioner encroached the properties. Therefore, the respondents passed the impugned order. Earlier, the petitioner by suppressing the material facts had obtained patta from the concerned Tahsildar and the same was also subsequently cancelled by the 3rd respondent. Thereafter, the petitioner filed revision before the 2nd respondent, which was also dismissed by the said authority after elaborate enquiry. Therefore, the authorities have passed the impugned orders,



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after carefully scrutinizing the available documents. Therefore, the Writ Petition is liable to be dismissed.

7. This Court heard both sides and perused the records.

8. The main contention of the petitioner is that the properties were purchased in the year 2013 through Sale Deeds dated 11.11.2013 and 04.10.2013 respectively and he is in possession and enjoyment. The survey numbers of the properties are not related to the Priya Nagar layout. They are different survey numbers, which were not related to the survey numbers of the petitioner. The authorities without verifying the survey numbers of the properties, cancelled the patta, already granted in favour of the petitioner and issued eviction notice. The same was challenged in W.P.No.32564/2019 and the same is pending

9. On carefully considering the facts of the case, this Court is of the view that the question of title is involved in this case. Therefore, the petitioner can very well establish his rights through appropriate civil proceedings. This Court being a Writ Court cannot conduct mini trial to decide the title of the



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petitioner and adjudicate the matter. Already the respondents had cancelled his patta and his revision against the cancellation, was also ended in dismissal. If at all, the petitioner is having better title, he can approach the Civil Court for seeking appropriate remedy in the manner known to law. In view of the above discussion, the writ petition has no merits and it deserves dismissal. However, the petitioner is at liberty to approach the Civil Court to establish his title, in accordance with law.

10. In the result, this Writ Petition is dismissed with the above said observations. No costs. Consequently, connected miscellaneous petition is closed.

(J.N.B., J.) (P.D.B., J.)
08.04.2024

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Index : Yes / No

Internet : Yes / No

To

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District Collector Office,
Chengalpet District.

2. The District Revenue Officer,
Chengalpet District.



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and
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