



WEB COPY



W.P.No.26793 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.No.26793 of 2024

W.M.P.Nos.29300 & 29302 of 2024

M.Geetha
W/o. N.Mohan
Door No.46/67, Pari Street,
Choolaimedu,
Avvai Nagar,
Chennai – 600 094.
Represented by her power agent,
Mr.Mohan
son of Narayanan,
Residing at,
Door No.46/67, Pari Street,
Choolaimedu,
Avvai Nagar,
Chennai – 600 094.

...Petitioner

Vs

- 1.The District Revenue Officer,
Chennai District,
Chennai.
- 2.The Revenue Divisional Officer,
North Chennai Revenue Division,
Chennai.
- 3.The Thashildar,
Madhavaram Taluk,
Chennai.



W.P.No.26793 of 2024

4.The Commissioner,
Greater Chennai Corporation,
Chennai.

5.The Assistant Engineer,
Zone -2,
Greater Chennai Corporation,
Chennai.

6.Vadivelu

7.V.Selvakumari

...Respondents

PRAYER :-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, Calling for the records pertaining to the impugned order passed by the 1st respondent in Na.Ka. No.J15/ 6908/ 2023 dated 27.11.2023 and quash the same and direct the 1st 2nd and 3rd respondents to restore patta in petitioner's name for land bearing Plot No.26 Door No.26 Nehruji Nagar, Mathur Village, Madhavaram Taluk, Chennai District comprised in survey No.75/2A, New Survey No.81 part as per patta No.3878 New Survey No.81/12 admeasuring an extent of 2790 sq.ft. together with the shed having electricity connection bearing No.018-003-2777.

For Petitioner : Mr.N.Sudharsan
For Respondents : Mr.M.R.Gokul Krishnan
Additional Government Pleader
(For R1 to R3)
: Mr.G.T.Subramanian
Senior Counsel for GCC for R4 & R5
: Mr.K.C.Krishnamoorthy
(For R6 and R7)



W.P.No.26793 of 2024

ORDER

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The Writ Petition has been filed seeking the issue of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the first respondent in Na.Ka.No.J15/6908/2023 dated 27.11.2023 and quash the same and direct the second respondent to restore patta in petitioner's name with reference to the land bearing plot No.26 Door No.26 Nehruji Nagar, Mathur Village, Madhavaram Taluk, Chennai District comprised in survey No.75/2A, New Survey No.81 part as per patta No.3878 New Survey No.81/12 admeasuring an extent of 2790 sq.ft. (herein after referred to as the above property).

2.It is the case of the petitioner that the above property was settled on her by her husband Mohan under a settlement deed 26.12.2019. Her husband had got the property under a settlement deed executed by his mother Lakshmi on 20.11.2016. Lakshmi had purchased the property from one Alayammal and others under a registered sale deed dated 25.03.1987. Thereafter, the petitioner had also obtained the mutation of revenue records in her name and patta was issued in patta No.3878.



W.P.No.26793 of 2024

3.It is the further case of the petitioner that respondents 6 and 7 had obtained an approval for forming a layout of house sites comprised in survey Nos.81/2A2A1, 2B1A, 2B2B, 2B1B, 2B2 in the name of DM layout. The lands are agricultural lands. However, the authorities had granted housing layout approval for respondents 6 and 7 who have no proper title to the above properties. For forming layout the sixth respondent represented by her power agent had gifted lands to the authorities for OSR (Park), Road vide registered gift deed dated 11.03.2022. In the said documents the recital is that it is the family property of the sixth respondent and he had executed a settlement deed in favour of the seventh respondent. However, the respondents 6 and 7 have not proved their antecedent title to the property.

4.The petitioner's lands are situate adjacent to this proposed housing layout. One Theerthi, who is the councillor of the Chennai corporation has attempted to grab the petitioner's land for the aforesaid housing layout. The petitioner would submit that she had thereafter obtained approval for forming a layout of housing sites. At this point in time the petitioner had come to learn that her property had been shown as park area in the layout that had been promoted by respondent 6 and 7.



W.P.No.26793 of 2024

Therefore, the petitioner had filed W.P.No.23627 of 2022, challenging the same. This Court was pleased to pass orders directing the third respondent therein to pass appropriate orders for revoking permission under Section 54 of the Tamil Nadu Town and Country Planning Act, 1971, within a period of six weeks from the date of receipt of copy of the order, in case, it is made out that the petitioner's land has been wrongly included in their layout.

5.Pursuant to the order, the District Revenue Officer/Assistant Commissioner had passed an order dated 10.03.2023 in and by which the petitioner's request to cancel the layout approval granted to respondents 6 and 7 had been rejected. This was challenged by the petitioner by filing Writ Petition in W.P.No.13699 of 2023 which was dismissed and a writ appeal has been preferred against the said order in Writ Appeal in W.A.Sr.No.85207 of 2024. The same is yet to be numbered.

6.In the meanwhile, the sixth respondent has given a representation to the third respondent stating that he is the absolute owner in survey No.81/2A2A property measuring 0.53.00 ares and that false patta No.3878 had been issued in favour of the petitioner by subdividing the



W.P.No.26793 of 2024

survey number. Instead of issuing notice to the petitioner the third respondent had served notice on her husband on 11.08.2022 calling upon the petitioner to appear before him. The petitioner had sought time and also requested the third respondent to furnish the copy of the petition submitted by sixth respondent. However, they had refused to give the same and insisted on the petitioner to give written submissions. The petitioner had appeared before the third respondent on 16.09.2022 and submitted certified copies of the documents in respect of his case and had submitted his explanation. Even at that point of time, petitioner had requested for a copy of the petition which is once again not furnished. The petitioner was once again asked to appear on 23.11.2022 vide Na.Ka.No.A1/3800/2022 dated 16.11.2022, before the second respondent. Once again petitioner requested for furnishing the copy of the petition submitted by the sixth respondent and the copy of the report of the third respondent. However, both copies were not given to the petitioner by the second respondent. The petitioner was informed that the next date of enquiry would be informed by a separate notice. Since, no notice was received, the petitioner had gone over to the office of the second respondent on 05.01.2023 where he was given a copy of the order dated 02.12.2022 in Na.Ka.No.A1/3800/2022 in and by which the patta



W.P.No.26793 of 2024

that stood in the name of the petitioner was cancelled. The petitioner's contention is that the order has been passed without an enquiry more particularly when the petitioner was kept in the dark about the contents of the petition filed by the sixth respondent which formed the basis for the enquiry. The petitioner would submit that the documents submitted by him has not been taken into consideration and in the impugned order itself the first respondent had stated that the sixth respondent had not produced any documents to prove his title to the property.

7.The petitioner challenged the said order by filing W.P.No.3130 of 2023 before this Court and by an order dated 03.02.2023 Writ was dismissed with a liberty to file a revision before the District Revenue Officer against the impugned order passed. In compliance with the order of this Court the petitioner had filed a revision before the first respondent on 16.03.2023 and had also produced all the documents before the first respondent on the date he was summoned to appear. The sixth and seventh respondent however had not produced any documents. However the first respondent had rejected the petitioner's revision and asked the respondents 6 and 7 to workout their remedy before the civil court. This order is the subject matter of challenge in the present Writ Petition.



W.P.No.26793 of 2024

8. Heard the counsels on either sides and perused the records. The

learned Government Advocates takes notice on behalf of the respondents

9. The impugned order would clearly indicate that the petitioner has not been heard before the impugned order has been passed. The first respondent has total overlooked the fact that the petition of the sixth respondent based upon which the entire proceeding had commenced has not been provided to the petitioner despite several request for the above. That apart, the petitioner has produced his prior documents which clearly shows that the property had been purchased by the petitioner's mother from one Alayammal and others under a registered document dated 25.03.1987. The reading of the said sale deed would indicate that the property had been purchased by Alayammal's husband Murugasen under a registered sale deed dated 19.10.1966. The petitioner is the daughter-in-law of the said Lakshmi. Therefore, the petitioner has traced title right upto the year 1966 and has also produced the patta in favour of the petitioner in the year 2020. Petitioner has obtained approval for forming the layout of housesites. All of which would clearly prove possession with the petitioner. The first respondent had clearly stated that the sixth respondent has not produced any documents to prove their case. Had the



W.P.No.26793 of 2024

first respondent given a personal hearing to the petitioner, the first respondent would not have dismissed the appeal. Therefore, considering the fact that the order has been passed without hearing the petitioner the Writ Petition is allowed and order passed by the 1st respondent in Na.Ka. No.J15/ 6908/ 2023 dated 27.11.2023 is quashed. The matter is remitted back to the first respondent for hearing. The first respondent is directed to dispose of the matter within a period of two weeks from the date of receipt of copy of this order after issuing notice to the 6th respondent and the petitioner.

10. Accordingly, the present Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

13.12.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non Speaking Order
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W.P.No.26793 of 2024

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W.P.No.26793 of 2024

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