



W.P.No.30513 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR

W.P.No.30513 of 2019

and

W.M.P.Nos.30545 of 2019, 29791 & 29801 of 2023

V.Nandhini

Represented by her Power Agent

D.K.Uma Sankari

... Petitioner

Vs.

1.The District Collector,
Kanchipuram District,
First Floor, Collectorate,
Kanchipuram – 631 501.

2.The Tahsildhar,
Pallavaram, Taluk Office Building,
Jamin Royapettai (Ganapathipuram)
Chrompet,
Chennai – 600 044.

3.The Member Secretary,
CMDA, Thalamuthu Natarajan Maaligai,
No.1, Gandhi Irwin Road,



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Egmore, Chennai – 600 008.

4. The Commissioner,
Pallavaram Municipality,
Pallavaram.

5.P.Rajkumar

6.R.Mangaiyar Thilagam

7.N.Ramalingam

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents 1 to 4 to consider petitioner's representation dated 17.09.2019 and to take necessary action against the third party and to demolish the unauthorised construction in Survey No.340/26 (Part), Old Survey No.340/8A situate at Zamin Pallavaram Village, Tambaram Taluk (now Pallavaram Taluk), Kanchipuram District, within the time frame to be fixed by this Court.

For Petitioner : Mr.G.Vijayakumar

For R1 and R2 : Mr.P.Kumaresan
Additional Advocate General-VII
assisted by Mr.M.Bindran
Additional Government Pleader

For R3 : Mr.V.Sudalai Selvan
Standing Counsel for CMDA

For R4 : Mr.P.Srinivas



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For R5 to R7 : Mr.J.Ravikumar

ORDER

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

This is a vexatious litigation by the petitioner who has now filed the writ petition to demolish the unauthorised construction in the property in Survey No.340/26 (Part) corresponding to Old Survey No.340/8A situated at Zamin Pallavaram Village, Tambaram Taluk, despite the fact that the petitioner knows that the private respondents have obtained valid building plan approval for putting up the construction.

2.The petitioner is a stranger who has a rival claim disputing the title of the respondents 5 to 7. The case of the petitioner is that she is the owner of vacant land in Old No.158, New No.90, at present Door No.53 (part), Bharathi Nagar Main Road, Zamin Pallavaram Village, Tambaram Taluk. Though the petitioner has produced before this Court some Revenue records, the fact that the dispute whether patta should be in the name of the petitioner had already been decided against the petitioner, is not disputed



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before this Court. Despite the fact that the petitioner is unable to establish that the Revenue records should bear her name as owner before various authorities, the petitioner has come forward with the present writ petition alleging that the private respondents are unauthorised occupants. The question whether a person is in legal and lawful possession or not, cannot be presumed on the basis of a stranger's assertion. When the petitioner admits that Revenue records stand in the name of the respondents 5 to 7, she cannot be allowed to contend that the respondents 5 to 7 are not in lawful possession. So long as the patta stands in the name of the private respondents, they should be presumed to be in lawful possession, as patta is a piece of evidence to show one's possession as it has been repeatedly held by Courts. Even assuming that the petitioner gets an order in her favour from Revenue officials, still she may have to approach the Civil Court to establish her title before getting possession from the private respondents.

3.It is in the said circumstances, the learned counsel for the petitioner relied upon a few documents/Revenue records to indicate that the property to which the private respondents claim title is not the property of private



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respondents. The Extracts of the Town Survey Land Register pertaining to S.Nos.325/2 and 325/21 were relied upon by the learned counsel for the petitioner to show that the property in S.No.325/2, which has been classified as hillock, has been shown as the property of the predecessors of the private respondents. The Extract clearly indicates that the properties referred to are different. There cannot be a comparison to a property comprised in S.No.325/2 and a property which is comprised in S.No.325/21 (part). Several submissions were made by the learned counsel for the petitioner which would only show the ignorance of the learned counsel for the petitioner regarding how the subdivisions of the lands are being effected by the Revenue officials.

4.The learned counsel for the petitioner also submitted that the property which is classified as Government Poramboke has also been utilised by the private respondents for unlawful constructions. Learned counsel for the petitioner referred to the order passed by the District Collector, Chengalpet. By this order, a wrong entry in respect of S.No.325/21 had been corrected. The order is based on previous records



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and documents and the petitioner has not challenged the order. Therefore, the petitioner's contention that the private respondents have no right in S.No.325/21 (part) cannot be sustained. Even if the private respondents are in possession of a Government Poramboke land, it is for the Government officials to initiate appropriate proceedings. From the records, the Government has recognised the private respondents' absolute title in respect of the property comprised in S.No.325/21 (part). In such circumstances, the contention that the private respondents have no title to the property is not only contrary to the records, but appears to be a false interpretation of the petitioner who has been unsuccessfully fighting against the private respondents in various forums.

5. Having regard to the facts admitted and since the petitioner has come forward with a vexatious litigation just to wreck vengeance against the private respondents, **this writ petition is dismissed** with cost of Rs.5,000/- (Rupees Five Thousand only) payable to Tamil Nadu Legal Services Authority, High Court Campus, Chennai, within a period of two weeks from the date of receipt of a copy of this order. Consequently,



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connected miscellaneous petitions are closed.

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6.Post the matter after two weeks for reporting compliance.

(S.S.S.R., J.) (N.S., J.)
09.02.2024

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Internet : Yes

Index : Yes / No

Neutral Citation : Yes / No

To

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