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W.P.No.36185 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.36185 of 2024

and

W.M.P.Nos.39068, 39070 & 39072 of 2024

Dr.A.Thiyagarajan

... Petitioner

Vs.

1.The Tahsildar
Mylapore Taluk, Greenways Road,
R.A.Puram, Chennai-028.

2.K.Krishnan

3.K.Manjula

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, Calling for the records of the patta in TSLR extract for S.No.592/4 issued by the 1st respondent in favour of 2nd and 3rd respondent, situated at door no.69-77/28, Singanna Chetty Street, Chindatiripet, Chennai- 600 002 dated 03.08.2016 and quash the same as illegal and against the Principles of natural justice and direct the 1st respondent to conduct proper enquiry.



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For Petitioner : M/s.Suhrith Parthasarathy
for Mr.P.Dinesh Kumar

For Respondents : Mr.A.Selvendran, Spl.GP.
for R1

ORDER

The writ petition is filed for the following reliefs:-

" Calling for the records of the patta in TSLR extract for S.No.592/4 issued by the 1st respondent in favour of 2nd and 3rd respondent, situated at door no. 69- 77/28, Singanna Chetty Street, Chindatiripet, Chennai- 600 002 dated 03.08.2016 and quash the same as illegal and against the Principles of natural justice and direct the 1st respondent to conduct proper enquiry."

2. Since the impugned order has been passed without notice to the petitioner, the order is being pronounced without issuing notice to respondents 2 and 3.

3. The petitioner would submit that he is the owner of the property bearing Door No.29/69, Singanna Chetty Street, Chindatiripet, Chennai- 600 002 comprised in S.No.592/1 by virtue of a registered



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sale deed dated 24.01.2024. The southern boundary of the petitioner's property that he had purchased is RS.No.592/4 (a common passage).

After obtaining necessary planning permission from the Greater Chennai Corporation, the existing superstructure was demolished and the petitioner had started construction on the said property. The petitioner would submit that the 2nd respondent has been creating problem right from day one of the construction and demanded a sum of Rs.5,00,000/- from the petitioner as if he has a right over the wall of the petitioner's property. The petitioner would submit that after the survey was conducted it was found that the claim of the 2nd respondent was totally false.

4. The petitioner would submit that while he was applying a cement coating on the constructed wall using the common passage, the 2nd and 3rd respondents prevented him. Upon inquiry, the 2nd respondent had produced a patta in the TSLR extract for the common passage in S.No.592/4, which was issued by the 1st respondent to the 2nd and 3rd respondents, who are husband and wife.



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5. The petitioner would submit that the properties comprised in S.No.592 and 591 were joint family properties and the same were partitioned in the year 1946 under a registered partition deed dated 02.01.1946. In the said partition deed, a 4 feet wide passage in S.No.592/4 was set apart for access from the street to the other partitioned lands. Since the date of partition, the passage has been left for the common enjoyment of all joint owners and stakeholders.

6. The petitioner would submit that subsequently when the property in this survey number was transferred to the subsequent purchasers it was still referred to as a common passage. The respondents 2 and 3 had purchased the eastern extreme of S.Nos.591/1, 591/2 and 591/3 under a registered sale deed dated 15.02.2004. Even the said sale deed reflects the four feet wide common passage. In the year 2022, the 2nd and the 3rd respondents had again purchased 2/3rd share in the property comprised in S.No.592/2 under a registered sale deed dated 14.09.2022 where for the first time the subject property has been intentionally described as



lane instead of common passage. Now making use of this document, respondents 2 and 3 had obtained patta in their names in respect of the common passage situate at R.S.No.592/4. The said patta has been issued by the 1st respondent in the name of the respondents 2 and 3 without issuing any notice to the other co-owners. Aggrieved by the same, the petitioner is before this Court.

7. Heard the learned counsel for the petitioner and Mr.A.Selvendran, the learned Special Government Pleader taking notice for the 1st respondent.

8. It is seen that the patta in TSLR extract for S.No.592/4 has been issued by the 1st respondent in favour of respondents 2 and 3 without notice to the petitioner and other co-owners. Therefore, since there is a violation of the principles of natural justice, the Writ Petition is allowed and the matter is remitted back to the 1st respondent with a direction to consider afresh the said request of respondents 2 and 3 for the issuance of patta in TSLR extract for S.No.592/4 in their name by holding an enquiry, affording personal hearing to the petitioner and



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the respondents 2 and 3 and thereafter passing orders within a period of 2 months from the date of receipt of a copy of this order. No costs.

Consequently, the connected Miscellaneous Petitions are closed.

29.11.2024

(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

To

1.The Tahsildar
Mylapore Taluk, Greenways Road,
R.A.Puram, Chennai-028.



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