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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.23130 OF 2012

Palar Garden Association,
Regn. No.S 172/86,
Rep. by its Secretary C.Rajavelu,
at H-4, Palar Garden,
Sathuvachari, Vellore - 632 009.

... Petitioner

Vs

1. The District Collector,
Collectorate, Sathuvachari,
Vellore - 632 009.
2. The Revenue Divisional Officer,
Vellore Taluk, Vellore - 632 009.
3. The Headquarters Deputy Tahsildar,
Taluk Office, Vellore - 632 009.
4. The Executive Engineer &
Administrative Officer,
Vellore Housing Unit,
Tamil Nadu Housing Board,
Vellore - 632 009.

... Respondents

Prayer : Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records of the second respondent herein in respect of the subject matter of the impugned order Na.Ka.A2/6085/2011 dated 31.10.2011 cancelling the joint patta No.1141 dated 08.08.2011 issued to the 66 persons who are all members of the petitioner association and quash the same.



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For Petitioner : Mr.C.V.Vijayakumar

For Respondents : Mr.Richardson Wilson,
1 to 3 Government Advocate

For Respondent 4 : Mr.R.Bharath Kumar

O R D E R

This writ petition has been filed to issue a Writ of Certiorari to call for the records of the second respondent herein in respect of the subject matter of the impugned order Na.Ka.A2/6085/2011 dated 31.10.2011 cancelling the joint patta No.1141 dated 08.08.2011 issued to the 66 persons who are all members of the petitioner association and quash the same.

2. The case of the petitioner is that the petitioner Association is a registered Association having a strength of 66 members who are all owners and residents of the housing colony namely "Palar Garden Association". The fourth respondent acquired property to an extent of 2.34 acres for construction of flats. After developing the said property sold out to the members of the petitioner Association consisting the 66 members. The total area is an extent of 2.34 acres in which the common area allotted for common use such as road, street, park, community hall and shops etc.

3. However, the third respondent issued patta for the entire extent of the land admeasuring 2.34 acres issued joint patta in the name of the petitioner members on 08.08.2011. The petitioner had constructed compound wall around their respective flats leaving the opening to the link road width of 9.00 mts. road portion, which was negatived by the authorities concerned for the reason that the existing road in the approved layout should be utilized of the public road and the same could not be closed.

4. Therefore, the petitioner association has no right to claim patta in respect of the entire extent of the property namely 2.34 acres of land, since as per the approved layout by the DTCP, Vellore vide No.6/85 dated 10.05.1985 that the park area could be used as only the purpose for which it is reserved



and moreover as per the approved layout is not saleable area. The layout consists of non saleable area such as park, road etc. Therefore, the patta cannot be issued for the total extent of the area in favour of the petitioner members.

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5. Therefore, the fourth respondent approached the second respondent for cancellation of patta issued in favour of the members of the petitioner association. On receipt of notice, the petitioner's association represented by its Secretary and made their statement before the second respondent. However, they requested further time to produce documents and their individual statements. Thereafter, the order impugned in this writ petition dated 31.10.2011 was passed by the second respondent thereby cancel the joint patta issued in favour of the petitioner members.

6. On perusal of the impugned order, the fourth respondent already donated the land admeasuring 828.37 sq.mts. by Gift deed dated 12.07.2011 registered vide Document No.10601/2011 in favour of the Sathuvachari Municipality, for the purpose of park and roads. Without deducting the said land, the third respondent issued joint patta for the entire extent of the property admeasuring 2.34 acres in favour of the members of the petitioner association. Therefore, the second respondent rightly cancelled the joint patta issued in favour of the petitioner association. Hence, this Court finds no infirmity or illegality in the order passed by the second respondent.

7. However, the members of the petitioner association are entitled to patta for their respective undivided share alone as per their respective sale deeds. Therefore, members of the petitioner association are at liberty to apply for separate patta for their respective undivided share as per their sale deeds before the third respondent and on receipt of the same the third respondent is directed to issue patta to the members of the petitioner association.

8. It is made clear that while considering the application for issuance of patta, the third respondent must ensure that the land which were already gifted in favour of the Sathuvachari Municipality for the purpose of common use such as park, roads etc., and issue patta to the members of the petitioner association for the undivided share alone.



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9. Accordingly, this writ petition is dismissed. No order as to costs.

Sd/-
Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar

rna

To

1. The District Collector,
Collectorate,
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Vellore - 632 009.
2. The Revenue Divisional Officer,
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Vellore - 632 009.
3. The Headquarters Deputy Tahsildar,
Taluk Office,
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4. The Executive Engineer &
Administrative Officer,
Vellore Housing Unit,
Tamil Nadu Housing Board,
Vellore - 632 009.

+1cc to M/s.C.V.Vijayakumar, Advocate, S.R.No.54446

+1cc to M/s.R.Bharath Kumar, Advocate, S.R.No.54855

+1cc to the Government Pleader, S.R.No.55072

W.P.No.23130 of 2012

AD(CO)
RLP(15/11/2021)