IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P. No. 12587 of 2021

1.Mr.M.P.Sambandam
2.Mrs.Rajalakshmi
3.Mr.Velmurugan ..Petitioners

Vs.

1. The Commissioner,
Cuddalore Municipality,
Cuddalore-607 001.

2. The Revenue Tahsildar,
Cuddalore-607 001.
.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to pass orders on the representation given by the 1st petitioner dated 19.03.2020 followed by a reminder representation dated 28.04.2020.

For Petitioners : Mr.D.Baskar

For Respondents : Mr.B.Anand, St.counsel for R1
Mr.S.John J.Raja Singh
Government Advocate for R2

O R D E R

The Case has been heard through video conferencing

The writ petition on hand is for mandamus to direct the respondents to pass orders on representation given by the first petitioner dated 19.03.2020 followed by a reminder representation dated 28.04.2020.

2. Even for issuing a direction to consider the representation, the petitioners are bound to establish their legal right. The petitioner states that the property bearing old T.S.No.1344/3 measuring east-west 115 feet X north-south 30 feet = 3450 sq.ft. in Thukkaram Street, Manjakuppam, Cuddalore-607 001, belonged to the paternal grand-mother of the

petitioners namely Smt.Thayyanayaki Ammal. She possessed the property absolutely by means of registered release deed dated 14.10.1946. On the death of the said Thayyanayaki Ammal, her son and father of the petitioners Mr.Palanisami Pillai succeeded to the property. After the death of the father of the petitioners, the petitioner younger brother viz., Rajamanickam and their sister succeeded to the property. The sister has got married and living with her husband. The sister filed a suit in O.S.No.187 of 2000 on the file of Sub court, Cuddalore against the petitioner and his brother for partition and separate possession. The said suit ended with a compromise and the settlement was recorded on 19.02.2001. The above mentioned house was allotted to the petitioner and his brother. The petitioner narrates the nature of the settlement as well as the portion of the property allotted to the petitioner. However all such civil disputes cannot be adjudicated in a writ proceedings.

3. The petitioner earlier filed W.P.No.32827 of 2013 seeking direction to the respondent to issue patta / assessment for the said property by disposing of the representation dated 10.10.2013. This Court passed an order as under:

> "6. There will be a direction to respondent to consider the petitioners' representation. In order to make the direction effective, the petitioner is directed to submit a fresh representation along with a copy of this order, the copy of the earlier representation and all records and after the same is done, the respondent shall consider the representation within a period of twelve (12) weeks from the date on which the representation is received in the office of the respondent and order to be passed on merits and in accordance with law."

4. Pursuant to the order of this Court, the petitioner sent further representation to the Commissioner, Cuddalore Municipality on 19.03.2020 and 28.04.2020. The Tahsildar, Cuddalore issued proceedings dated 30.07.2020, called upon the petitioner to submit the relevant documents for the purpose of grant of patta along with an application afresh. Instead of submitting an application along with all the documents, the writ petitioner has again filed the present writ petition with a direction to consider the representation and pass orders. In fact, the representation dated 19.03.2020, followed by the reminder representation dated 28.04.2020 were responded by the 2nd respondent/Revenue Tahsildar and issued a communication dated 30.07.2020, calling upon the petitioner to submit an application along with all relevant documents. Thus, the petitioners ought to have submitted all the relevant documents

establishing their ownership so as to consider their case for grant of patta.

5. Application filed seeking patta is to be considered by following provisions contemplated under the Tamil Nadu Patta Pass Book Act, 1983. For issue of patta pass book, an enquiry is to be conducted by the competent authority. For conducting an enquiry, the parties are bound to submit the documents establishing their ownership. As per the provisions of the Act, owner of the immovable property alone is entitled to get patta. In event of any dispute, then the parties are bound to approach the competent Civil Court of law for resolving the dispute. The Revenue Authorities are incompetent to adjudicate the civil disputes between the parties regarding title or ownership nor in the event of establishing clear title/ownership, the Revenue Authorities are bound to consider the application seeking patta by following the procedures contemplated under the Tamil Nadu Patta Pass Book Act. This being the procedures to be followed, mere direction to consider the representation would not provide any relief to the petitioner and even for issuing such a direction, the petitioner has to establish his legal right. This apart, the representation submitted by the petitioner on 19.03.2020 and 28.04.2020 were already considered and the 2nd respondent Revenue Tahsildar issuing proceedings dated 30.07.2020 directing the petitioners to submit a fresh application along with all the documents.

6. This being the factum, the petitioner has to establish the ownership before the 2nd respondent by filing all the documents and the authority has to conduct an enquiry by affording opportunity to all the parties and take a decision for passing orders. This being the factum established, the petitioner has not established any rights so as to consider the relief as sought for in the present writ petition. Further the representations submitted by the petitioner were already considered and thus, the petitioner is not entitled to any relief and accordingly, the writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

rpl/vri

To

1.The Commissioner,
Cuddalore Municipality,
Cuddalore-607 001.

2.The Revenue Tahsildar,
Cuddalore-607 001.

+1cc to the Government Pleader, S.R.No.27709

W.P. No. 12587 of 2021

SS(CO)
CB(22/07/2021)