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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2021

CORAM

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

W.P. No. 38120 of 2016

B.Hemanthraj

... Petitioner

-vs-

1. The District Revenue Officer,
District Collectorate,
Tiruvallur - 602 001.
2. The Tahsildar,
Ambattur Taluk, Ambattur,
Chennai - 600 053.
3. V.Kavitha
4. Praphakaran
5. The Revenue Divisional Officer,
Ambattur Revenue Division,
Anna Nagar Western Extension,
Chennai - 600 101.

(R5 impleaded as per order dated
23.01.2017 by B.R.J. in W.M.P. No.
844 of 2017 in W.P. No. 38120 of 2016)

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing the respondents 1 and 2 to consider and dispose off the petitioner's representation dated 20.09.2016.

For Petitioner : Mr.K.Manikadnan

For Respondents : Mr.N.Inbanathan
Addl. Govt. Pleader for R1,R2&R5



O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the respondents 1 and 2 to consider and dispose off the petitioner's representation dated 20.09.2016.

2. The case of the petitioner is that, the petitioner has purchased a property to the extent of 1,300 sq.ft at Plot No.3, Rajiv Gandhi Nagar, Thathankuppam, Villivakkam, Chennai - 600 049 comprised in Old Survey No.128/1B1 Part, Ambattur T.S. No.118/2 of No.61 Korattur Village.

3. The said property, according to the petitioner was purchased by him from the third respondent, who is the wife of the fourth respondent, vide a valid sale deed dated 23.12.2011 and the same was registered as Document No. 5633 of 2011 at the Office of the Sub Registrar, Villivakkam.

4. The said property has been purchased by the petitioner by valid sale deed as stated supra and from purchase, he has been in possession and enjoyment of the property. According to the petitioner, however by making fraudulent attempt, the third and fourth respondents managed to get the Pata of the said Plot in favour of them and accordingly, Patta was granted by the Tahsildar concerned to and in favour of the third respondent, who is the wife of the fourth respondent on 22.08.2016. Therefore, in order to cancel the said Patta issued in favour of the third respondent, the petitioner had made an appeal to the District Revenue Officer, who is the first respondent and since the said appeal has not been considered, the petitioner has approached this Court.

5. Heard Mr.K.Manikadnan, learned counsel appearing for the petitioner who would submit that, though the appeal was filed to the first respondent, normally the appeal has to be decided by the Revenue Divisional Officer, subsequently, he has been impleaded as a fifth respondent, hence a direction can be given to the fifth respondent to decide the appeal of the petitioner after giving an opportunity of being heard to both the petitioner and others on merits within a time frame and in that case, the petitioner would be satisfied, he contended.

6. On the other hand, Mr.N.Inbanathan, learned Additional Government Pleader appearing for the first, second and fifth respondents would submit that, as against the order passed by the second respondent / Tahsildar, granted Patta in favour of third and fourth respondents, since appeal has been filed by the petitioner, though directly to the first respondent, the same would be forwarded to the Revenue Divisional Officer, who is the



Appellate Authority and accordingly, the said appeal would be decided on merits, of course after giving an opportunity to both sides.

7. There is no representation for the private respondents.

8. I have heard the learned counsel appearing for the parties and have perused the materials placed before this Court.

9. In view of the said stand taken by the learned Additional Government Pleader appearing for the respondents and after having gone through the materials placed before this Court, I am of the view that, a direction can be given to the first respondent to forward the appeal filed by the petitioner dated 20.09.2016 to the fifth respondent who on receipt of the same shall act upon.

10. In that view of the matter, this Court is inclined to dispose of this Writ Petition with the following orders:

"That there shall be a direction to the first respondent to forward the appeal dated 20.09.2016 filed by the petitioner as against the order passed by the second respondent / Tahsildar dated 22.08.2016, issued Patta in favour of the third respondent, within a period of two weeks from the date of receipt of a copy of this order and on receipt of such forwarding of the appeal of the petitioner from the first respondent, the fifth respondent shall consider and decide the same on merits and in accordance with law and of course, after hearing the petitioner as well as the third and fourth respondents in this regard by issuing separate notices to them and ultimately pass final orders thereon, on merits within a period of three months from the date of receipt of a copy of the petitioner's representation from the first respondent.

11. With these directions, this Writ Petition is disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar



vji

To

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2. The Tahsildar,
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Chennai - 600 053.
3. The Revenue Divisional Officer,
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+1cc to the Government Pleader Sr.24289

W.P. No. 38120 of 2016

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srg 16/07/2021