

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2021

CORAM:

THE HON'BLE MR.JUSTICE N.SESHASAYEE

WP.Nos.17238, 17242 & 17243 of 2020
&WMP.Nos.21311 & 21314 of 2020

Dilliammal ...Petitioner in WP/17238/2020
Duraikannammal ...Petitioner in WP/17242/2020
S.Krishnaveni ...Petitioner in WP/17243/2020

-Vs-

- 1.The District Collector,
Chennai District,
Rajaji Salai,
Chennai - 1
- 2.The Tahsildar,
Amaindhakarai Taluk Office,
Gajalakshmi Colony,
Shenoy Nagar,
Chennai.
- 3.The Executive Officer,
Arulmigu Agasteeswarar Kovil,
Villivakkam. ...Respondents in all WPs

Common Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire records in respect of the proceedings passed by the 2nd respondent Tahsildar dated 31.10.2020 in procs No.A2/1244/2020 and quash the same consequently direct the 3rd respondent to issue patta in favour of the petitioner in respect of the house property bearing Survey No.11A/7B, Door No.1 Sivan Koil Kulakarai Street, Villivakkam.

For Petitioner in all WPs : Mr.D.Rajagopal
For R1 & R2 in all WPs : Mr.E.Balamurugan
Special Government Pleader
For R3 in all WPs : Mr.A.K.Sriram for Mr.M.Karthikeyan

COMMON ORDER

The petitioners herein challenge the proceedings of the Tahsildhar, who is arrayed as the second respondent, dated 31.10.2020, by which he has refused to grant patta to the petitioners.

2.The learned counsel for the petitioners submitted that the petitioners have made a representation to the Tahsildhar on 31.12.2018 and since there was no forward movement, the petitioners have moved this Court with separate Writ Petitions in W.P.No.9572, 9617 & 10080 of 2020, wherein, this Court Vide its order dated 12.08.2020 has directed the Tahsildhar to consider the representation of the petitioners as per law.

3.The learned counsel for the petitioners submitted that the Tahsildhar has not applied his mind to the facts, which is borne out by the fact that the date of notice to enquiry and the date of the order are even dated ie., 31.10.2020.

4.Prima facie, this Court considers that the Tahsildhar may not have applied his mind.

5.The respondents including the private respondents have filed their respective counters.

6.Mr.A.K.Sriram, learned counsel made a submission on behalf of the third respondent that all the three petitioners have filed separate civil suits for declaration of their right over the property, which is now the subject matter of the impugned order before the IV Additional City Civil Court, Chennai. All the three suits were laid on 11.09.2017. The details of the same are as follows;

Writ Petition	Suit Number
W.P.No.17238 of 2020	O.S.No.4748 of 2017
W.P.No.17242 of 2020	O.S.No.4749 of 2017
WP.No.17243 of 2020	O.S.No.4747 of 2017

7.It is during the pendency of these three suits, the petitioners have moved the Tahsildhar concerned with their representation dated 31.12.2018. Therefore, even if the case of the petitioners were presumed to be true, the Tahsildhar cannot have come to a different conclusion than what he has arrived at, since the civil suits are pending.

8.Mr.E.Balamuruganm, learned Government Advocate appearing for respondents 1 and 2 also concurred with the submissions of Mr.A.K.Sriram and also added that a third party who is a tenant of the property involved has laid a suit in O.S.No.456 of 2016 before the IV Additional City Civil Court and the same came to be dismissed. Against which, the plaintiff therein has preferred A.S.No.335 of 2018.

9.The present situation is a creation of the petitioners themselves. The Tahsildhar has no authority to over ride the authority of the civil Court in declaring the title of the property. When the civil suits are pending, in fitness of things, the plaintiff ought not to have moved the Tahsildhar

with their representation dated 31.12.2018 for mutating the patta. It lacks both bonafide and fairness, which is expected of a litigant. It is therefore too late in the day for them to cry foul of the quality of proceedings of the Tahsildhar, dated 31.10.2020

10.This Court therefore, does not find any merit in these Writ Petitions. This Court however, adds that the IV Additional City Civil Court, Chennai while disposing of the suits in O.S.No.4747, 4748 & 4749 of 2017 pending on its file, decide the issue before it uninfluenced by the proceedings of the Tahsildhar, dated 31.10.2020, or the observation of this Court as to the conduct of the petitioners made herein above.

11.Accordingly, the Writ Petitions are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

Tsg

To

1.The District Collector,
Chennai District,
Rajaji Salai,
Chennai - 1

2.The Tahsildar,
Amaindhakarai Taluk Office,
Gajalakshmi Colony,
Shenoy Nagar,
Chennai.

3.The Executive Officer,
Arulmigu Agasteeswarar Kovil,
Villivakkam.

4.The IV , the Additional City Civil Judge,
Chennai.

+1cc to the Government Pleader, S.R.No.6685

Order made in
WP.Nos.17238, 17242
& 17243 of 2020