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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No. 18145 of 2016

and

WMP.Nos. 15912 & 15913 of 2016

1. M.Radhakrishnan

2. R.Vijaylal

... Petitioners

Versus

1. The Special Tahsildar

Town Land Tax Plan,

Tambaram.

2. The Sub Inspector of Survey

Town Land Tax Plan,

Tambaram.

3. H.Ramlal

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned order, dated 05.04.2016 in Ref.Na.Ka.No.95/2015/A passed by the first respondent and quash the same.



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For Petitioners : Mr.A. Swaminathan
For RR 1 & 2 : Mr.G. Krishna Raja
Additional Government Pleader
For R3 : Mr.V. Ayyadurai, Senior Counsel
For Mr.G. Gokul

ORDER

This writ petition is filed challenging the order passed by the first respondent in Ref.Na.Ka.No.95/2015/A, dated 05.04.2016 and quash the same.

2. The case of the petitioners is that the first petitioner herein had purchased 24 cents of land in Survey No.62/1, Irumbuliyur Village, Tambaram Taluk, Kancheepuram District, from one Loganayagi Ammal, by way of a registered sale deed, dated 16.09.1984 in Document No. 1463 of 1984, on the file of Sub Registrar Office, Tambaram, and from the date of purchase, he is in absolute possession and enjoyment of the said property and Revenue Records are also mutated in his name. Subsequently, the second petitioner herein was settled 690 sq.mtrs (7427) sq.ft., comprised in Old S.No.62/1C (Part), E, Block No.9, Town Survey No.1/31, situated at Irumbuliyur Village, Tambaram Taluk, Kancheepuram District, by way of



settlement deed, dated 10.04.2015 in Document No.2677 of 2015 on the file of Sub Registrar Office, Tambaram, executed by the father of the second petitioner. In the meanwhile, the third respondent had agreed to sell his 1/5th share out of 16 cents of land in New Survey No.63/2, Old S.No.63, Irumbuliyur Village to his father, by way of sale agreement, dated 17.07.1993 for sale consideration of Rs.7,000/-. Thereafter, the first petitioner had paid the total sale consideration to the third respondent and the third respondent had agreed to execute the sale deed in favour of the first petitioner as and when the first petitioner asked for. However, the third respondent did not execute the sale deed. The third respondent had applied for issuance of Patta in respect of 16 cents of land in S.No.63/2, Irumbuliyur Village. The first respondent/Special Tahsildar had issued a Town Survey Land Register Extract in respect of 690 sq.mtrs of land in S.No.63/2C (Part) in favour of the father of the second petitioner. While that being so, the first respondent, having colluded with the third respondent's daughter, created a sale deed in respect of 24 cents in S.No.62/1 which is bogus. In this regard, the petitioners have lodged a complaint before the concerned Vigilance and Anti Corruption Department. Stating that the first respondent has been issued with Patta in respect of S.No.62, T.S.No.1/31 in favour of the first petitioner,



the first respondent/Special Tahsildar passed an order dated 05.04.2016 in Ref.Na.Ka.No.95 of 2015/A thereby striking the name of the first petitioner in the Town Survey Land Register Extract/Patta and issued Town Survey Land Register Extract/Patta in respect of T.S.No.1/31 in favour of the third respondent and his brother. Furthermore, the first respondent has no right to cancel the existing Town Survey Land Register under Section 10 of the Tamil Nadu Patta Pass Book Act, 1983. The second petitioner is the present owner and the first petitioner is the predecessor-in-title. Hence, the petitioners have come forward with the present writ petition under Article 226 of the Constitution of India.

3. The learned Additional Government Pleader appearing for the respondents submitted that, as against the order passed by the first respondent/Special Tahsildar, there is an effective remedy of appeal available before the Revenue Divisional Officer.



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4. Heard both sides and perused the materials placed on record.

5. Considering the facts and circumstances, the 1st respondent has struck the name of the first petitioner in the TSLR and granted the patta in favour of the 3rd respondent and challenging the said act, the present writ petition has been filed. However, the fact remains that after the Tahsildar passed the order in terms of Section 3 or Section 10 of the Act, appeal remedy is available to the aggrieved party u/s 12 of the Act before the Revenue Divisional Officer. However, without exhausting the appeal remedy, the petitioner has come before this Court by filing the present writ petition, which is not sustainable.

6. Considering the facts and circumstances of the case, this Court is not inclined to interfere with the impugned order passed by the first respondent in Ref.Na.Ka.No.95/2015/A, dated 05.04.2016. However, if the petitioners make an application before the Revenue Divisional Officer concerned for issuance of patta in their name, the same shall be considered by the said authority on merits and in accordance with law.



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7. Therefore, this writ petition is disposed of, with liberty to the petitioners to prefer an appeal before the Revenue Divisional Officer concerned, within a period of two weeks from the date of receipt of a copy of this order. If such an appeal is filed before the Revenue Divisional Officer, he shall pass appropriate orders, on merits and in accordance with law, within a period of 12 weeks from the date of filing of appeal, after issuing notice to the petitioners as well as the third respondent. No costs. Consequently, connected Miscellaneous Petitions are closed.

05.08.2022

msm

To

1. The Special Tahsildar
Town Land Tax Plan, Tambaram.
2. The Sub Inspector of Survey
Town Land Tax Plan, Tambaram.



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M.DHANDAPANI, J.

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