

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.34132 of 2014

D.Sekar

...Petitioner

Vs.

1. The Secretary to Government of Tamil Nadu,
Revenue Department, Secretariat,
Chennai-9.
2. The District Collector,
Tiruvallur District, Tiruvallur.
3. The Tahsildar,
Gummudipoondi Taluk,
Tiruvallur District.
4. Premila
5. S.Kalaiselvi
6. S.Bharathy
7. S.Prema
8. S.Vettrivendhan

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating the order of the 3rd respondent made in Na.Ka.6325/2014/Aa2 dated 07.11.2014 and quash the same and consequentially direct the 3rd respondent to issue the patta in the name of the petitioner to the extent of 2.5 Cents (99 Sq.M) in respect of Survey No.372/36 (Old Survey No.372/1) bounded on North by petitioner land, East by '25' feet Gummudipoondi Town Panchayat's Road, South by-Survey No.372/37, West by-Survey No.372/35 situated at Old Gummudipoondi Village, Gummudipoondi Taluk, Tiruvallur District.

For Petitioner : Mr.D.Kumaralingam

For Respondents: Mr.Yogesh Kannadasan,
Special Government Pleader, for R1 to R3.

O R D E R

The petitioner has filed this Writ Petition seeking for issuance of a Writ of Certiorarified Mandamus to call for the records in respect of the order dated 07.11.2014 passed by the 3rd respondent in Na.Ka.6325/2014/Aa2, quash the same and consequently direct the 3rd respondent to issue patta in the name of the petitioner.

2. The case of the petitioner is that, originally, the property comprised in S.No.372/36, Old S.No.372/1, measuring an extent of 2.5 cents, situated at Old Gummudipoondi Village, Gummudipoondi Taluk, Tiruvallur District, belonged to one Govindasamy Pandithar and the same was purchased by one Subramaniam from the legal heirs of the said Govindasamy pandithar, vide, sale deed dated 19.07.1989 in Document No.1518/1989. After the demise of said Subramaniam and his only son viz., Sivaprakasam, the subject property was purchased by the petitioner from the private respondents who are the legal heirs of said Sivaprakasam, vide, sale deed dated 26.04.2012 in Document No.2446/2012. Pursuant to the said purchase, the petitioner made a representation dated 28.11.2013 before the 3rd respondent seeking for issuance of Patta in his favour in respect of the subject property. However, the same was not considered by the 3rd respondent. Aggrieved by the inaction of the 3rd respondent, the petitioner earlier filed a Writ petition in W.P.No.24585 of 2014 and this Court, vide, order dated 10.09.2014, directed the 3rd respondent to consider the petitioner's representation and dispose of the same on merits within a period of eight weeks. In compliance of the said order of this Court, the present impugned order dated 07.11.2014 is passed by the 3rd respondent in Na.Ka.6325/2014/Aa2, rejecting the petitioner's representation on the ground that, the petitioner already has a residential plot and residential house in his name. Hence, challenging the same, the present Writ petition is filed.

3. Though the petitioner has filed this Writ petition challenging the order dated 07.11.2014 passed by the 3rd respondent in Na.Ka.6325/2014/Aa2, however, the learned counsel for the petitioner fairly submitted that, as against the order dated 07.11.2014 passed by the 3rd respondent, there is an effective Appeal remedy available before the Appellate Authority / Revenue Divisional Officer in terms of Section 12 of the Tamil Nadu Patta Passbook Act (in short 'Act'). Hence, he restricted his prayer and sought permission of this Court to file appropriate Appeal before the Revenue Divisional Officer

concerned.

4. Learned Special Government Pleader appearing on behalf of the respondents 1 to 3 submitted that, pursuant to the order of this Court dated 10.09.2014 passed in W.P.No.24585 of 2014, the petitioner was enquired on 29.10.2014 and the documentary evidence produced by the petitioner at the time of enquiry, were not sufficient to substantiate his contention. Further, it is pertinent to note that, the disputed property is registered as Government Vacant Natham (village site) in the Natham Settlement Adangal Account, for which, Patta cannot be issued in favour of the petitioner, as already a residential plot and a residential house exist in his name.

5. It is the further submission of the learned Special Government Pleader appearing on behalf of the respondents 1 to 3 that, upon perusal of the prevailing entries in respect of the disputed property in the records, it is evident that the subject property does not stand registered either in the name of the petitioner's vendor or in the name of the vendor of the petitioner's vendor. While so, seeking issuance of patta in respect of the subject property is not sustainable. He furthermore submitted that, as against the order passed by the 3rd respondent / Tahsildar, there is an effective appeal remedy available before the Appellate authority / Revenue Divisional Officer concerned and without exhausting the said appeal remedy, filing this Writ petition is not sustainable. Hence, he prayed for dismissal of the present Writ petition.

6. Heard the arguments advanced on either side and perused the materials available on records.

7. Admittedly, the petitioner made a representation dated 28.11.2013 before the 3rd respondent for issuance of Patta in his favour, and since, no order has been passed on the same, the petitioner filed a Writ petition in W.P.No.24585 of 2014, in which, this Court, vide, order dated 10.09.2014, directed the 3rd respondent to consider the petitioner's representation and dispose of the same. In compliance of the order of this Court, the present impugned order dated 07.11.2014 is passed by the 3rd respondent in Na.Ka.6325/2014/Aa2. However, it is pertinent to note that, as against the impugned order dated 07.11.2014 passed by the 3rd respondent, there is an effective Appeal remedy available before the concerned jurisdictional Revenue Divisional Officer / Appellate Authority in terms of Section 12 of the Tamil Nadu Patta Passbook Act. Therefore, without exhausting the said appeal remedy, filing this Writ

petition cannot be acceded to.

8. Hence, this Court, without interfering with the order under challenge, grants liberty to the petitioner to file an Appeal before the Jurisdictional Revenue Divisional Officer in terms of Section 12 of the TamilNadu Patta Passbook Act, within a period of four weeks from the date of receipt of a copy of this order. If such appeal is filed, the jurisdictional Revenue Divisional Officer is directed to consider the same on merits and in accordance with law and pass appropriate orders within a period of eight weeks from the date of filing of appeal, after affording an opportunity of personal hearing to the petitioner and the private respondents.

9. With the aforesaid directions, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS-V)

// True Copy //

Sub Assistant Registrar

skt

To

1. The Secretary to Government of Tamil Nadu,
Revenue Department, Secretariat,
Chennai-9.
2. The District Collector,
Tiruvallur District, Tiruvallur.
3. The Tahsildar,
Gummudipoondi Taluk,
Tiruvallur District.

+1cc to the Government Pleader, SR.No.35564

W.P.No.34132 of 2014

RR(CO)
CB(13/07/2022)