IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2023

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. No.10971 of 2022

V.Sathyanarayanan ... Petitioner

Vs.

1. The Revenue Divisional Officer
   Tambaram Taluk Office
   NH 32 Chitalapakkam
   Tambaram West
   Tambaram, Chennai - 600 045

2. The Special Tahsildar
   Urban Land Tax Office
   Revenue Follow-up Service
   Tambaram, Chennai -600 045

3. The Tahsildar
   Tambaram Taluk Office
   NH 32 Chitalapakkam
   Tambaram West
   Tambaram, Chennai - 600 045

4. S.R.Raja, MLA
   Tambaram Constituency
   S/o.Late Ragunathan
   No.14, Sreenivasan Reddy Street
   West Tambaram, Chennai - 600 045 ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus to call or the entire records relating to impugned order passed by the 1st respondent in Mu.Mu.No.858/2022/A, dated 15.03.2022 and impugned order of the 2nd respondent in Petition No.741/2016 dated 01.08.2016 and to quash the same as illegal, incompetent and consequently directing the official respondents to issue separate patta for Plot No.64, at Haritha Enclave, Tambaram Village in Old S.F.No.384/1A4, 384/1A5, in Ward D, Block 2, and Town Survey No.7/25, 7/26, an extent of 3618 Sq.Feet as per the sale deed dated 17.03.1999 in Doc. No.1302/1999.

For Petitioner : Mr.K.Elangoo
For Respondents :Mr.A.Arokia Satheesh for
Mr.S.Sethuraman for R4
Mr.Yogesh Kannadasan
Spl. Government Pleader for R1 to R3

ORDER

The Writ Petition is filed seeking to issue a writ of Certiorarified Mandamus to call or the entire records relating to impugned order passed by the 1st respondent in Mu.Mu.No.858/2022/A, dated 15.03.2022 and impugned order of the 2nd respondent in Petition No.741/2016 dated 01.08.2016 and to quash the same as illegal, incompetent and consequently direct the official respondents to issue separate patta for Plot No.64, at Haritha Enclave, Tambaram Village in Old S.F.No.384/1A4, 384/1A5, in Ward D, Block 2, and Town Survey No.7/25, 7/26, an extent of 3618 Sq.Feet as per the sale deed dated 17.03.1999 in Doc. No.1302/1999.

2. On 17.03.1999, the petitioner purchased plot No.64 of an extent of

3618 Sq.feet from his vendors M/s.Blue Jaggers Estates Pvt Ltd., in Doc. No.1302 of 1999 and he is in possession and enjoyment of the same. On 05.11.2008, the Indian Bank issued sale notice for Plot No.64, with certain other plots of M/s.Blue Jaggers Estates Pvt Ltd. On 16.02.2009, the petitioner got interim injunction restraining the Bank from taking further proceedings under the SARFAESI Act till 24.02.2009 and he was given liberty to communicate the same to the Sub-Registrar, Tambaram with regard to schedule mentioned property therein by order of DRT-I, Chennai in SIA No.532 of 2009 in SA SR No.530 of 2009. On 24.02.2009, interim injunction order was extended and the same was communicated to the Sub-Registrar on the same day. On 26.02.2009, the Sub Registrar, directed the petitioner to pay fee for the sum of Rs.20/- towards entertaining the protest petition. On 27.02.2009, the bank and the 4th respondent/the buyer S.R.Raja/who is sitting MLA, colluded with Sub Registrar and got the sale certificate registered vide Doc. No.1099 of 2009, in spite of injunction order of DRT-I. On 06.03.2009, the 4th respondent got Sub Division and separate patta order with regard to Plot No.64 without notice to the petitioner and got sale deed even on 17.03.1999 itself. FIR in Crime Nos.32 of 2009 and 153 of 2010 registered by CCB Chennai, based on the complaint given by Plot Owners and land owners against the bank officials for creating/fabricating mortgage deed dated 21.09.1990. The Bank challenged the same vide, quash petition and it was dismissed by this Court by order dated 26.11.2010. On 24.12.2011, the Bank officials and land owners entered into a joint compromise memo inter-alia the Bank returned all original property title deeds and agreed not to pursue/initiate any SARFAESI proceedings against the property of the petitioner and others properties. On 07.05.2012, the Supreme Court recorded the compromise memo and closed the said FIR. On 07.01.2016, considering the terms and conditions of joint compromise memo and the order of the Hon'ble Apex Court, the DRT-III, Chennai has passed the final order by allowing SA No.409 of 2014 and set aside the sale held on 05.11.2008 and consequently the sale certificate dated 20.12.2008 issued to respondent-4 was cancelled. On 26.04.2016, the petitioner made a request to the Tahsildar, Tambaram to transfer the patta in his name by enclosing the sale deed, order of the DRT, EC and lay out approval. On 01.08.2016, the Tahsildhar simply rejected the Patta application, without notice to the petitioner and not even made any reference with regard to annexure document stating that the documents enclosed are irrelevant. Hence, an appeal was filed before the 1st respondent. On 31.10.2017, this Court directed the RDO to pass an order on merits and in accordance with law, after giving due opportunity to the petitioner and the 6th respondent therein in W.P.No.38921 of 2016 within a period of 8 weeks. On 07.12.2021, the petitioner filed a Contempt Petition No.246 of 2021, as the 1st respondent did not obey the order. On 15.03.2022, the 1st respondent had passed the impugned order stating that there is an appeal filed by the Indian Bank in RA (SA) No.163 of 2018, which is pending before the DRAT, Chennai, against the final order dated 07.01.2016 passed by DRT-III in SA No 409/2014 and the petitioner was directed to prefer revision within 30 days before the DRO, Chengalpet. The said reason is baseless and unsustainable and hence both the impugned orders of the respondents 1 and 2 challenging as revisional remedy is not efficacious and it is useless formality only.

3. The learned counsel for the petitioner submitted that when once the Bank had given undertaking before the Supreme Court to withdraw all the proceedings pending with DRT, and the DRT also considering all the facts, set aside the sale certificate issued in favour of 4th respondent and when they approached the Revenue authority, they did not consider all the facts. Even the Tahsildar has not passed a speaking order. Therefore, they approached RDO and he has not considered the same. Since appeal is pending in DRT, pending appeal has nothing to do with the present, the writ Petition may be

allowed.

4. The 4th respondent submitted that he is not a party to the earlier proceedings. He is only a bona-fide purchaser by way of auction in the SARFAESI proceedings and he is a bona-fide purchaser for a valuable consideration without notice and defect in title. Howerer, before the DRT, he is not a party, as also to other Banks. Therefore, he preferred an appeal and the petitioner and 4th respondent are parties pending appeal before the DRT and when once the appellate Tribunal is seized of the matter, the parties have to work out their remedy only before the Appellate Tribunal where the appeal is pending.

5. The learned counsel for the petitioner pointed out that all the very same action is decided and the sale certificate is set aside. The fourth respondent does not have any right in the Trust. However, challenging the order of DRT, now the matter is pending by way of appeal before the DRAT and either the petitioner approached 3rd respondent, since he passed the order filed an appeal before the 1st respondent, and the 1st respondent has passed the impugned order, but he has not gone into the merits of the case. However,

he has stated that the appeal is pending and therefore, he could not pass order. The petitioner however has to challenge the order passed by the 1st respondent only before the DRO. If at all he is challenging the order of the 1st respondent, since he is a party to the proceedings before the Appellate Tribunal, he has to redress all his grievances only before the Appellate Tribunal.

6. Under the above circumstances, the petitioner has got an alternative remedy to redress his grievance. He is not entitled to get the relief sought for. Therefore, the Writ Petition is dismissed. The petitioner is at liberty to redress all his grievances in the pending appeal before the DRAT.

28.11.2023

ksa-2
Index : Yes / No
Speaking Order : Yes / No
Neutral Citation Case : Yes/No

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P.VELMURUGAN. J.

Ksa-2

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