

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2015

CORAM

THE HON'BLE Mr. JUSTICE SATISH K.AGNIHOTRI
and
THE HON'BLE Dr. JUSTICE P.DEVADASS

W.A.No.182 of 2015
and
M.P.No.1 of 2015

Sundarammal

..Appellant

Vs.

1.The District Collector,
Collector's Office,
Dharmapuri District.

2.The Tahsildar,
Tahsildar's Office,
Pennagaram.

..Respondents

Writ Appeal filed under Clause 15 of Letters Patent against the order dated 15.07.2014 made in W.P.No.18575 of 2014.

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified Mandamus Calling for the records pertaining to the order in Na.Ka.8735/2014(A5) and quashing that impugned order dated 25.02.2014 of the 2nd respondent and Direct the 1st respondent to issue the patta in the name of the petitioner.

For Appellant ... Mr.Mayilai Sugumar

For Respondents .. Mr.P.S.Sivashanmugha Sundaram,
Spl. Govt. Pleader

JUDGMENT

(Judgment of the Court was delivered by SATISH K.AGNIHOTRI, J.)

Questioning the correctness of the order dated 25 February 2014 passed by the second respondent/Tahsildar, wherein it was found that the appellant/writ petitioner has made encroachment on the land wherein a head water tank for Hogenakkal Composite Drinking Water Scheme is built and also there is a highway alongside, the appellant/writ petitioner has filed W.P.No.18575 of 2014.

2.The sole contention of the learned counsel for the writ petitioner/appellant is that since the order impugned in the writ petition was sent to the District Collector, it amounts to approval by the Collector and as such, the Revenue Divisional Officer, is not competent to consider the appeal as he is subordinate to the District Collector.

3.The learned single Judge, on consideration of the facts, came to the conclusion that there is an effective alternative statutory appellate remedy available to the writ petitioner/appellant, to the jurisdictional Revenue Divisional Officer and as such, the writ petition is not maintainable. Thus, this appeal.

4.The learned counsel appearing for the writ petitioner/appellant reiterates the same contending that the Revenue Divisional Officer is a subordinate officer to the Collector and the order impugned in the writ petition has been sent to the Collector for approval and as such, the appellate remedy will not be effective and expeditious.

5.We have heard the learned counsel appearing for the parties and perused the pleadings and documents appended therein.

6.On a plain reading and perusal of the order dated 25 February 2014 impugned in the writ petition, it is noticed that the said proceedings has not been sent to the Collector for approval but it was sent to the Collector for information only. Thus, the apprehension of the writ petitioner/appellant that the notice was approved by the Collector is misplaced. The Revenue Divisional Officer is the appellate authority and he is the superior officer to the officer who passed the order impugned in the writ petition. Thus, the contention of the writ petitioner/appellant that the Revenue Divisional Officer is subordinate to the Collector and therefore, he cannot consider

the appeal unbiased and independently, is to be rejected as misconceived and misplaced. The order passed by the learned single Judge is unexceptionable as the petitioner has failed to produce any other material to indicate existence of extraordinary situation, warranting interference of this Court.

7. In view of the above, the writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed. The writ petitioner/appellant is granted two weeks time from today to prefer appeal, if he is so advised.

sd/
ASSISTANT REGISTRAR (CS-III)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

mmi

To

1. The District Collector,
Collector's Office,
Dharmapuri District.

2. The Tahsildar,
Tahsildar's Office, Pennagaram.

+1 CC to MR. Mayilai Sugumar Advocate. SR.NO. 61480

+1 CC to Govt. Pleader. SR.NO. 61438

W.A.No.182 of 2015

CO-VSN
JD 24/11/2015

सत्यमेव जयते

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