

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :21.07.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.No.4693 of 2014
& M.P.No.1 of 2014

U.Mohan

...Petitioner

Vs

1.The State of Tamil Nadu,
Represented by the Tahsildar,
Thiruporur Taluk Office,
Kancheepuram District.

2.G.G.Saidu Ameen Bhasha

... Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of Writ of Certiorarified Mandamus to call for the connected records in impugned order made in Na.Ka.No.3647/2013/A dated 28.11.2013 passed by the first respondent herein, quash the same as illegal and consequently, direct the first respondent to issue patta in favour of the petitioner bearing Survey No.22/1A2 and Patta No.2720 for an extent of 2.50 acres situated at Thaiyur 'A' Village, Thiruporur Taluk, Kancheepuram District.

For Petitioner : Mr.L.G.Sahadevan

For Respondents: Mr.R.Vijayakumar

Addl. Government Pleader for R1

Mr.N.Selvaraju for R2

O R D E R

By consent, the main writ petition itself is taken up for final disposal.

2. Heard Mr.L.G.Sahadevan, the learned counsel appearing for the petitioner, Mr.R.Vijayakumar, learned Additional Government Pleader for the first respondent and Mr.N.Selvaraju, learned Counsel appearing for the second respondent.

3. The petitioner has filed this writ petition challenging the order passed by the first respondent-Tahsildar, Thiruporur Taluk, by which, patta has been granted in favour of the second respondent in respect of the property in question.

4. In the affidavit filed in support of the writ petition, it is mainly contended that the first respondent has passed the impugned order without issuing show cause notice to the petitioner or without conducting any enquiry. The learned counsel appearing for the petitioner submitted that the first respondent overstepped his jurisdiction and granted patta for a larger extent of the property in favour of the second respondent and thereby, perpetuate the litigation and caused confusion. He further submitted that taking advantage of the impugned order, the second respondent has produced the same before the other judicial Forum before which suits are pending. Therefore, the learned counsel has submitted that the impugned order cannot be sustained in law.

5. The learned Additional Government Pleader appearing for the first respondent submitted that when there is appeal remedy available to the petitioner under Section 12 of the of the Tamil Nadu Patta Pass Book Act, 1983, the writ petition is not maintainable.

6. As per Section 12 of the Tamil Nadu Patta Pass Book Act, 1983, any person aggrieved by an order made by the Tahsildar under this Act may, within such period as may be prescribed, appeal to such authority as may be prescribed and the decision of such authority on such appeal shall subject to the provisions of section 13, be final. Section 13 provides for a revisional remedy. Even though in the affidavit filed in support of the writ petition it has been stated that without conducting an enquiry, the impugned order was passed by the first respondent which was taken advantage by the second respondent in filing the patta in the pending litigation, in my view when the petitioner has statutory remedy of filing an appeal before the Appellate Authority under Section 12 of the of the Tamil Nadu Patta Pass Book Act, 1983 and the Act also provides hierarchy to the remedies, the petitioner ought to have availed the statutory remedy available to him. Furthermore, the grievance of the petitioner is required to be examined with respect to the facts of the case and on the basis of the entries in the revenue records anterior to the claim made by him. Therefore, this Court is of the view that the petitioner ought not to have filed the writ petition without exhausting the alternative remedy available under the Act. Hence, the writ petition is held to be not maintainable. However, the petitioner is granted liberty to file an appeal before the Appellate Authority within a period of 30 days from the date of receipt of a copy of this order. On filing of such an appeal by the petitioner, the Appellate Authority shall entertain the same without reference to the limitation. It is open to the petitioner to seek for appropriate interim protection before the Appellate Authority.

7. The writ petition is disposed of accordingly. No costs.
Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

raa
To

1.The Tausildar,
State of Tamil Nadu,
Thiruporur Taluk Office,
Kancheepuram District.

+ 2 ccs to Mr.L.G. Sahadevan, Advocate Sr.36770
+ 1 cc to Government Pleader Sr.37047

KU(CO)
Eu 29.07.15

W.P.No.4693 of 2014



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