

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :30.07.2018

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.1717 of 2016
and
W.M.P.No.1493 of 2016

A.Dhanabharathy

... Petitioner

Vs.

- 1.The Union of India,
Represented by Chief Secretary,
Government of Pondicherry.
- 2.The Secretary, Revenue Department,
Government of Pondicherry.
- 3.The District Collector,
Revenue Complex,
Saram, Pondicherry.
- 4.The Director of Survey,
Directorate of Survey and Land Records
Revenue Complex,
Saram, Pondicherry.

... Respondents

Prayer:- Writ petition has been filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the proceedings dated 30.10.2015 in No.7351/DOS/ST-II/2011 on the file of the 4th respondent and quash the same and direct the 4th respondent to grant free House Site Patta for the property of an extent of 00.0054 hectare or 581 sq.feet, situated at Door No.44, Mariamman Kovil Street, Sanjeevi Nagar, Raya Pudhupakkam Post, Pondichery-605 111 in No.19, Aalankuppam Revenue Village in R.S.No.12/1 in favour of the petitioner, within the reasonable time fixed by this Hon'ble Court.

For Petitioner : Mr.K.Sukumaran

For Respondents : Mr.A.Gandhi Raj, GP(Puducherry)
Assisted by Mr.V.Balamurugan

O R D E R

The order of the original authority in relation to Land Grant dated 30.10.2015 is under challenge in the present writ petition.

2.The grievance of the writ petitioner is that the free House Site Patta for the property described in the writ petition has not been provided to the writ petitioner. Contrarily, the claim of the writ petitioner has been rejected by the respondents.

3.The learned counsel appearing on behalf of the respondents brought to the notice of this Court that as per the Pondicherry Land Grant Rules 1975, an appeal has been provided to the higher authority under Rule 24(1) of the said rules.

4.The learned counsel for the respondents further states that the writ petitioner has to prefer an appeal and the Appellate Authority has to consider the order passed by the Original Authority. Rule 24(1) of the Pondicherry Land Grant Rules, 1975 which reads as under:

"24 (1) From every original decision in assignment cases passed by the Deputy Collector, one appeal shall be allowed, provided that it be made within 30 days of the date on which the original decision was pronounced or communicated, if it be on the order of Deputy Collector to the Collector, and within 45 days if it be from the Collector to the Government. In computing the period of limitation, the day on which the decision appealed against was pronounced or communicated and the time requisite for obtaining a copy of that decision shall be excluded. On all copies issued shall be entered the date of the decision or communication, the date of application for copy, the date on which the copy was ready for delivery and the date on which the appeal time expires. Appeal to the Collector should be stamped with a Court fee label to the value of Rs.1.50 p ., and an appeal o the Government should be stamped with a Court fee label of Rs. 2.50 p. Any appellate authority may admit an appeal even after the expiry of the period of limitation provided he is satisfied that the appellant had good and sufficient causes for not presenting the appeal within such period."

5.This Court is of an opinion that when the rules provides an appeal, the aggrieved person from and out of the order passed by the Original Authority has to prefer an appeal. Contrarily, the writ petition cannot be entertained in a routine manner when an appeal provision is provided under the rules. The appeal provision can be dispensed with only on exceptional

circumstances. Where there is a gross injustice or in certain circumstances, the appeal remedy cannot be exhausted. In all other circumstances, the person aggrieved has to prefer an appeal under the rules in force. Admittedly, the appeal provision is available under Rule 24(1) of the Pondicherry Land Grant Rules 1975.

6.This being the factum of the case, the writ petitioner is at liberty to approach the appropriate Appellate Authority under the provisions of the said rules. In the event of preferring any such appeal, the Appellate Authority is at liberty to consider the same on merits and in accordance with law.

7.Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS VI)

//True copy//

Sub Assistant Registrar

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To

- 1.The Union of India,
Represented by Chief Secretary,
Government of Pondicherry.
- 2.The Secretary, Revenue Department,
Government of Pondicherry.
- 3.The District Collector,
Revenue Complex,
Saram, Pondicherry.
- 4.The Director of Survey,
Directorate of Survey and Land Records
Revenue Complex,
Saram, Pondicherry.

+1cc to Mr.K.Sukumaran, Advocate SR.No.51261
+1cc to Government Pleader (Puducherry) SR.No.52518

W.P.No.1717 of 2016

GN(06/08/2018)