



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.06.2018

CORAM:

THE HONOURABLE MS.INDIRA BANERJEE, CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.A.[MD].No.862 of 2018

K.Kodeeswaran : Appellant/Petitioner
Vs.

1.The District Collector,
Pudukkottai District.

2.The Revenue Divisional Officer,
Aranthangi, Pudukkottai District.

3.The Tahsildar,
Aranthangi Taluk, Pudukkottai District.

4.V.Lakshmanan,
President, Taluk Agriculturists Society Ekanivayal Post,
Aranthangi Taluk, Pudukkottai District.

5.V.Murthy : Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 28.04.2017 made in W.P.(MD).No.8411 of 2017, on the file of this Court.

Prayer in WP(MD). 8411/ 2017 :

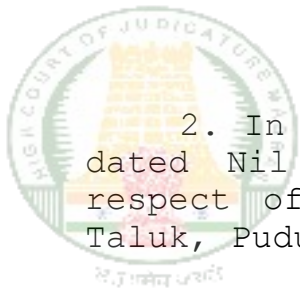
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, calling for the records relating with the order of the 2nd respondent made in Pa.Mu.No. 3274/2015/A6, dt.nil.02.2017, cancelling the joint patta No. 241, relating with the land in S.No. 58/3D1 in Kambar Kovil Village in Manamelkudi taluk in Pudukkottai District and quash the same as it is arbitrary and illegal.

For Appellant : Mr.R.Suriyanarayanan
For Respondents 1 to 3 : Mr.VR.Shanmuganathan
Special Government Pleader

JUDGMENT

[Judgment of the Court was delivered by The Hon'ble Chief Justice]

This appeal is against an order dated 28th April 2017 passed by the learned Single Bench dismissing the writ petition being W.P(MD) No.8411 of 2017, on the sole ground of existence of an alternative remedy of appeal.



2. In the writ petition, the petitioner had challenged an order dated Nil February 2017, cancelling the joint patta No.241 in respect of Survey No.58/3D1 in Kambar Kovil Village, Manamelkudi Taluk, Pudukkottai District.

3. It appears that notice was issued on 31.01.2017 for hearing at 11.00 a.m., on 02.02.2017 and on that day, an ex parte order was passed. There is nothing to show that the notice was actually served. In any case, notice of less than 48 hours is, in our view, far too insufficient and no notice in the eye of law. The impugned order appears to be in violation of principles of natural justice, no effective opportunity of hearing having been given to the writ petitioner.

4. It is well settled that there is no limit to the power of this Court under Article 226 of the Constitution of India. However, as a matter of judicial discipline, the Courts refrain from entertaining a writ petition, when there is an equally efficacious alternative remedy. There are, however, some well recognised exceptions to the rule of alternative remedy, one of them being violation of principles of natural justice.

5. The impugned order, as observed above, being violative of principles of natural justice, the writ petition, in our view, ought not to have been rejected on the sole ground of existence of an alternative remedy. The order under appeal and the order passed by the learned Single Bench are set aside and the matter is remitted to the authority concerned for fresh decision in compliance with the principles of natural justice. It hardly need be mentioned that the writ petitioner shall be given sufficient notice.

6. The appeal is allowed, as indicated above. No costs.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Pudukkottai District.

2. The Revenue Divisional Officer,
Aranthangi,
Pudukkottai District.

3. The Tahsildar,
Aranthangi Taluk,
Pudukkottai District.



+1cc to M/S.R.Suriyanarayanan, Advocate SR.No. 70426

+1cc to Special Government Pleader, SR.No. 70557

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JUDGMENT MADE IN
W.A. [MD].No.862 of 2018
28.06.2018

nb/rsb

JM/RSK/SAR 2/11.07.2018/3P/6C