



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

WEB COPY

W.P. (MD) No.8259 of 2019

and

W.M.P (MD) No.6482 of 2019

Haitima India Private Limited,
Represented by its Director,
M.Loganatha,
66, Parameswaran Layout,
Pappanaickenpalayam,
Coimbatore District.

... Petitioner

vs.

The Zonal Deputy Tahsildar,
Vedasandur Taluk,
Dindigul District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, call for the records relating to the impugned order passed by the respondent dated03.2017 and quash the same in respect of Serial No.19 alone, consequently direct the respondent to issue patta in the name of petitioner's company in respect of Survey Nos.18/2, 18/3, 22/2, 37/1A, 37/2B, 44/1, 18/5, 37/1B, 37/2A, 53/3, 8/2, 8/3, 9/2, 9/3, 7/1B at Nagaiyankottai Village, Vedasandur Taluk, Dindigul District.

For Petitioner : Mr.A.Prasanna Rajadurai
for Mr.V.Sasikumar

For Respondent : M/s.B.Bhagawathi,
Government Advocate

ORDER

The prayer sought for in this Writ Petition is to quash the impugned order passed by the respondent dated ..03.2017 in respect of Serial No.19 alone and consequently direct the respondent to issue patta in the name of petitioner's company in respect of Survey Nos.18/2, 18/3, 22/2, 37/1A, 37/2B, 44/1, 18/5, 37/1B, 37/2A, 53/3, 8/2, 8/3, 9/2, 9/3, 7/1B at Nagaiyankottai Village, Vedasandur Taluk, Dindigul District.

<https://hcservices.ecourts.gov.in/hcservices/> 2. Heard Mr.V.Sasikumar, learned counsel for the petitioner and M/s.B.Bhagawathi, learned Government Advocate appearing for the respondent.



3. Even though the learned counsel appearing for the petitioner wants to make submission on merits assailing the order impugned herein, on the ground that, there has been no notice given by the respondent/Tahsildar before passing this order and in fact, the copy of the order has not been directly served on the petitioner and he was able to get it only from the notice board where it has been pasted, this Court raised a preliminary objection with regard to the non-exhaustion of statutory appeal, as the statutory appellate remedy, which is equally efficacious under Section 12 of the Patta Passbook Act.

4. Leaned counsel appearing for the petitioner submits that, since no notice has been given and no order has been served on the petitioner, on that ground, the writ petition can be directly entertained by this Court instead of going before the Revenue Divisional Officer (i.e.) the appellate authority.

5. I have considered the said submissions made by the learned counsel appearing for the petitioner with regard to the preliminary objection on non-exhaustion of statutory remedy.

6. Whatever be the reason on merits to assail the impugned order, the same can be very well agitated by the petitioner before the Appellate Authority (i.e.) the Revenue Divisional Officer and once such an appeal is filed and these grounds are raised, it is expected that the Appellate Authority, who has been provided the power under the Statute, shall decide the appeal on merits by taking into account the said grounds raised, at the earliest.

7. In that view of the matter, this Court is inclined to dispose of this writ petition with the following directions that,

(i) the present prayer sought for against the impugned order challenging the order passed by the respondent Tahsildhar can very well be agitated before the Appellate Authority, namely, the Revenue Divisional Officer concerned;

(ii) It is open to the petitioner to file such an appeal before the Appellate Authority / Revenue Divisional Officer concerned and once such an appeal is filed, the same shall be entertained by the Revenue Divisional Officer without insisting any limitation and

(iii) Once the appeal is entertained, the ground of violation of principles of natural justice raised by the petitioner shall be decided first as a preliminary issue and based on which findings can be given and if ultimately the Revenue Divisional Officer finds the order of the respondent suffers on the ground of violation of principles of natural justice, on that ground, final order can be passed by the Revenue Divisional Officer .



(iv) At any rate, once the appeal is filed, the same shall be decided and final orders to be passed by the Revenue Divisional Officer concerned within a period of 60 days from the date of receipt of filing of the appeal.

With the above directions, this Writ Petition is dismissed and a copy of this order shall also be communicated to the Revenue Divisional Officer concerned as the Revenue Divisional Officer is not a party to this writ petition.

Sd/-

Assistant Registrar (CO)

/ True Copy /

Sub Assistant Registrar(CS-)

To

1.The Zonal Deputy Tahsildar,
Vedasandur Taluk,
Dindigul District.

2.The Revenue Divisional Officer,
Palani, Dindigul District.

+2 CC to M/s.V.SASI KUMAR, Advocate (SR-69864[F] dated 19/06/2019)
+1 CC to M/s.SPL GP (SR-69941[F] dated 19/06/2019)

das/sts

Order made in
W.P. (MD) No.8259 of 2019
Dated: 18.06.2019

ES/12.07.2019/3P/6C