IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :02.12.2020

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.7287 of 2020
and
W.M.P.No.8688 of 2020

M.V.Abdul Basith,
S/o.Late.M.K.Abdul Vahab,
36/10, Acharapakkam Road,
Maduranthagam 603 306. ... Petitioner

Vs.

1.The District Collector,
District Collectorate,
Chengalpet District.

2.The Revenue Divisional Officer,
Revenue Divisional Office,
Maduranthagam.

3.The Tahsildar,
Maduranthagam,

4.The Commissioner,
Municipality of Maduranthagam,
Maduranthagam. ... Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records of the 3rd respondent's rejection order in R.C.5713/2017/B2 dated 24.09.2019 quash the same and directing the 3rd respondent to issue patta in favour of he petitioner for the property in Survey Number.1257/5 measuring an extent of 5 cents situated at 36/10, Acharapakkam Road, Maduranthagam.

For Petitioner : Mr.K.Sathish Kumar

For Respondent : Mr.E.Balamurugan, (for R1 to R3)
Special Government Pleader

Mr.P.Srinivas (for R4)
Standing counsel

ORDER

This Writ Petition has been filed challenging the impugned order passed by the 3rd respondent dated 24.09.2019, rejecting the application given by the petitioner seeking for patta with respect to the subject property.

2.Heard Mr.K.Sathish Kumar, learned counsel appearing for the petitioner; Mr.E.Balamurugan, learned Special Government Pleader for respondents 1 to 3 and Mr.P.Srinivas, learned Standing Counsel for the 4th respondent.

3.The learned counsel appearing for the petitioner raised various grounds attacking the order passed by the 3rd respondent and submitted that the order is unsustainable in law and the 3rd respondent has not properly appreciated the documents that were furnished at the time of the enquiry.

4.In the considered view of this Court, the petitioner has a efficacious alternative remedy by way of an appeal before the Revenue Divisional Officer as against the order passed by the 3rd respondent. The petitioner ought to have exhausted this remedy before rushing this Court by way of filing the present Writ Petition.

5.The Hon'ble Supreme Court in the judgment passed in Thansingh Nathmal And Ors vs A. Mazid, Superintendent Of Taxes reported in AIR 1964 SC 1419 has held as follows:

> "7....The jurisdiction of the High Court under Art. 226 of the Constitution is couched in wide terms and the exercise thereof is not subject to any restrictions except the territorial restrictions which are expressly provided in the Article. But the exercise of the jurisdiction is discretionary; it is not exercised merely because it is lawful to do so. The very amplitude of the jurisdiction demands that it will ordinarily be exercised subject to certain self-imposed limitations. Resort so that jurisdiction is not intended as an alternative remedy for relief which may be obtained in a suit or other mode prescribed by statute. Ordinarily the Court will not entertain a petition for a writ under Art. 226, where the petitioner has an alterative remedy which, without being unduly onerous, provides an equally efficacious remedy. Again the High Court does not generally enter upon a determination of questions which demand an elaborate examination of evidence to establish the right to enforce which the writ is claimed. The High

Court does not therefore act as a court of appeal against the decision of a court or tribunal, to correct errors of fact, and does not by assuming jurisdiction under Art. 226 trench upon an alternative remedy provided by statute for obtaining relief. Where it is open to the aggrieved petitioner to move another tribunal, or even itself in another jurisdiction for obtaining redress in the manner provided by a statute, the High Court normally will not permit, by entertaining a petition under Art. 226 of the Constitution, the machinery created under the stature to be by-passed, and will leave the party applying to it to seek resort to the machinery so set up." (emphasis supplied)

The above judgment of the Hon'ble Supreme Court has been followed in all the other subsequent judgments and it is clear from the above judgment that ordinarily this Court will not entertain the Petition under Article 226 of the Constitution of India, where the petitioner has an alternative remedy. The Hon'ble Supreme Court held that even though this is a self imposed restriction, the same has to be necessarily exercised in all cases, where there is an equally efficacious remedy. This judgment of the Hon'ble Supreme Court will squarely apply to the facts of the present case.

6.In view of the above, this Court is not inclined to entertain this Writ Petition. The petitioner is directed to file an appeal before the 2nd respondent on or before 21.12.2020. The petitioner is also directed to file all the relevant documents along with the appeal. The 2nd respondent on receipt of the appeal from the petitioner shall enquire the matter and pass final orders strictly in accordance with law, after giving opportunity to all the parties concerned, within a period of eight weeks, thereafter.

7.This Writ Petition is disposed of accordingly. Consequently, connected Miscellaneous Petition is also closed. No costs.

Sd/-
Asst.Registrar (CS III)

/true copy/
Sub Asst. Registrar

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To

1.The District Collector,
District Collectorate,
Chengalpet District.

2.The Revenue Divisional Officer,
Revenue Divisional Office,
Maduranthagam.

3.The Tahsildar,
Maduranthagam,

4.The Commissioner,
Municipality of Maduranthagam,
Maduranthagam.

+1 cc to Government Pleader sr38895

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