



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 19.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD)No.565 of 2021

S.Manickavasagam

... Petitioner

- Vs -

1.The District Collector,
Virudhunagar District.

2.The Revenue Divisional Officer,
Virudhunagar District.

3.The Tahsildar,
Aruppukottai Taluk,
Virudhunagar District.

4.Taluk Surveyor,
Aruppukottai Taluk,
Aruppukottai.

5.The Commissioner,
Aruppukottai Municipality,
Aruppukottai.

6.Sivarama Ganesh

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating with the impugned order in Pa.Mu.AA4/58/2020, dated 28.11.2020, passed by the second respondent and quash the same as it is illegal and in consequence to direct the respondents 1 to 5 to restore the Patta to the site measuring 0.0168.5 Sq. Mtr. in T.S.No.14/2, in Ward - C, Block No.18, (New Ward No.3), in Aruppukottai, in the name of the petitioner after cancelling the subdivision T.S.No.14/4 made in favour of the sixth respondent.

For Petitioner	: Mr.R.Suriyanarayanan
For Respondents	: Mr.C.Ramesh
1 to 5	Special Government Pleader

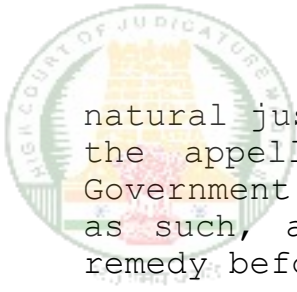


ORDER

According to the petitioner, he is the absolute owner of the property in T.S.No.14/2 measuring about 0.0168.5 Sq. Mtr. According to him, originally, the property belonged to his father and his father got patta during natham settlement in the year 1969. By way of partition, the petitioner claimed to have been put into possession and enjoyment of a portion of the property in 2003. He, therefore, has made an application, dated 11.12.2017, to change the revenue records on the basis of the partition effected in the family. While making a subdivision, there was an error in the entry of records. Therefore, the petitioner filed a Writ Petition in W.P. (MD)No.27048 of 2019. During the pendency of the Writ Petition, the third respondent has changed the records and in view of the order being passed by the authority, the Writ Petition was disposed of on 07.02.2020 by giving liberty to the petitioner to file an appeal against the order before the second respondent.

2. Thereafter, the petitioner filed an appeal on 11.02.2020 before the second respondent seeking to cancel the subdivision. However, after receiving the application from the petitioner, without giving any opportunity to the petitioner, the second respondent passed an order on 28.11.2020 dismissing his appeal. Challenging the same, the petitioner is before this Court.

3. Several grounds have been raised in the Writ Petition stating that the principles of natural justice have been violated. However, in the penultimate paragraph of the impugned order itself it is clearly stated that a person whoever aggrieved is entitled to approach the District Revenue Officer concerned, as a consequence of the appeal being provided in the relevant Act. However, without exhausting the appeal remedy, the petitioner has approached this Court by attempting to impress upon this Court as if the principles of natural justice have been violated and therefore, the Writ Petition is maintainable. This Court has discountenanced such submissions time and again and not inclined to entertain such Writ Petition at all. Unless or until wherein this Court is compelled to interfere at that stage as any delay would cause irreparable loss to the petitioner, this Court would not normally interfere without the party exhausting the effective alternative remedy. In this case, the order itself directs the petitioner to file an appeal if he chooses to do so. However, without complying with the direction, the petitioner has chosen to approach this Court, seeking its intervention. This Court is unable to appreciate as to the maintainability of the Writ Petition in view of an appeal provision being provided before the District Revenue Officer concerned. When such remedy is available in the face of that, it is certainly not permissible for the petitioner to approach this Court directly. The petitioner cannot be allowed to plead violation of principles of



natural justice when every time such a litigant has chosen to ignore the appellate authority upon serving his own ends. When the Government felt a need for effective alternative remedy and provided as such, any aggrieved individual has to necessarily exhaust that remedy before invoking the writ jurisdiction of this Court.

WEB COPY

4. In the above circumstances, this Court feels that the Writ Petition is not maintainable since effective alternative mechanism is created for redressal of the grievance of the petitioner and before such redressal option is exhausted, it is certainly not open to the petitioner to approach this Court. Therefore, the Writ Petition is dismissed giving liberty to the writ petitioner to file an appeal before the District Revenue Officer concerned, as directed by the Revenue Divisional Officer's impugned order dated 28.11.2020. No costs.

Sd/-

Assistant Registrar(AE)

//True copy//

/ /2021

Sub Assistant Registrar

To

1. The District Collector,
Virudhunagar District.
2. The Revenue Divisional Officer,
Virudhunagar District.
3. The Tahsildar,
Aruppukottai Taluk,
Virudhunagar District.
4. The Taluk Surveyor,
Aruppukottai Taluk,
Aruppukottai.
5. The Commissioner,
Aruppukottai Municipality,
Aruppukottai.

Order made in
WP(MD)No.565 of 2021
19.01.2021

SRM

SRS/05.02.2021/3P/6C