



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.260 of 2022

S.Nirmala Devi

..Appellant

Vs

1. N.Madhava Rao
2. The District Collector,
Chengalpattu District.
3. The District Revenue Officer,
Chengalpattu.
4. The Revenue Divisional Officer,
Chengalpattu.
5. The Tahsildar,
Thiruporur,
Chengalpattu District.
6. The Deputy Tahsildar,
Thiruporur,
Chengalpattu District.
7. The Village Administrative Officer,
Muttukadu,
Chengalpattu District.
8. Anusuya Devi. N

..Respondents

Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 19.01.2022 made in W.P.No.24720 of 2021.

Prayer in W.P.No.24720 of 2021: Writ Petition is filed under Article 226 of Constitution of India praying for this issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the Patta No.1020 issued by the 4th respondent in favour of 7th and 8th respondent herein in respect of the property measuring about 0.11.5 ares or 29 cents in S.No.140/4B1



in Kazhipattur Village Thiruporur Taluk Chengalpet District and quash the same and further issue direction to the 4th respondents to restore the patta in the petitioners name.

WEB COPY

For the Appellant : Mr.Om Prakash
Senior Counsel
for M/s.T.M.Naidu & Co

For the Respondents : Mr.T.N.Rajagopalan
for 1st respondent

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

The writ appeal has been maintained against the judgment dated 19.1.2022, whereby the writ petition preferred by the petitioner/non-appellant was allowed.

2.The writ petition was filed challenging the issuance of joint patta in favour of respondents 7 and 8 in the writ petition, without adhering to the procedure contemplated under law. The appellant and the eight respondent in the writ petition were served with a notice. They chose not to file a counter-affidavit and contest the writ petition, accordingly, they did not raise any objection to the maintainability of the writ petition.

3.Learned senior counsel for the appellant has raised the issue of maintainability of the writ petition in the light of Sections 12 and 13 of the Tamil Nadu Patta Pass Book Act, 1983. It is submitted that remedy of appeal was available to the petitioner/ non-appellant and, therefore, the writ petition should have been dismissed on the ground of availability of alternative remedy.

4.The only issue raised by the appellant to challenge the judgment is qua the maintainability of the writ petition when an alternative remedy is available to the petitioner/non-appellant.

5.In view of the said submission, this court shall at the outset deal with the objection to the maintainability of the writ petition due to availability of alternative remedy. The objection aforesaid does not always deserve to be accepted for rejection of the writ petition. Rather, in a given case, despite availability of alternative remedy, writ petition would be maintainable. In the present case, the facts itself show that



the writ petition could not have been dismissed on the ground of availability of alternative remedy. It is for the reason that patta for the land in Survey No.140/4B1 admeasuring 29 cents was in the name of the petitioner/non-appellant. The seventh and eighth respondents in the writ petition made an application to enter their names. Without putting the petitioner/ non-appellant on notice and even causing an enquiry by the authority, a direction for joint patta was given. The order aforesaid was passed in violation of principles of natural justice and without following the procedure contemplated under law. In such cases, even the availability of alternative remedy cannot be taken as a ground to dismiss the writ petition, rather it can be entertained when there is a gross violation of principles of natural justice.

6. In view of the above, it was held that the action of the respondent authorities in entering the names of the appellant and others as joint patta-holders without following the procedure was grossly illegal. The learned Single Judge has rightly interfered in the order. It is after referring the fact that the seventh respondent in the writ petition has otherwise filed a suit for partition as against the petitioner/non-appellant in C.S.No.730 of 2019, where the application filed seeking an order of injunction was dismissed.

For the foregoing reasons, finding no substance in the appeal to challenge the judgment, the writ appeal is dismissed. No costs. Consequently, C.M.P.No.1892 of 2022 is closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To:

1. The District Collector,
Chengalpattu District.
2. The District Revenue Officer,
Chengalpattu.
3. The Revenue Divisional Officer,
Chengalpattu.



4. The Tahsildar,
Thiruporur,
Chengalpattu District.

5. The Deputy Tahsildar,
Thiruporur,
Chengalpattu District.

6. The Village Administrative Officer,
Muttukadu,
Chengalpattu District.

+1cc to Mr.T.N.Rajagopalan, Advocate, S.R.No.9801

+1cc to Mr.T.M.Naidu & Co, Advocate, S.R.No.9723

+1cc to the Government Pleader, S.R.No.10306

W.A.No.260 of 2022

NK (CO)
RGA (24/02/2022)