



W.P.No.30766 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2022

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

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Revathi

...Petitioner

Vs.

The Tahsildar,
Krishnagiri Taluk,
Krishnagiri District.

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to Na.Ka.5348/2022/A2 dated 19.09.2022 and quash the same and thereby direct the respondent to grant patta for S.No.28/1A1A, 28/3, 25/4B3 in Kurubarapalli Village, Krishnagiri District within a period stipulated by this Court.

For Petitioner : Mr.S.Gowsik Sundar

For Respondent : Mr.U.Bharanidharan
Additional Government Pleader



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ORDER

This Writ Petition has been filed challenging the order in Na.Ka.5348/2022/A2 dated 19.09.2022 and to quash the same and consequential direction to the respondent to grant patta for S.No.28/1A1A, 28/3, 25/4B3 in Kurubarapalli Village, Krishnagiri District

2.The case of the petitioner is that the lands in S.No.28/1A1A, 28/3 & 25/4B3, measuring an extent of 1 Acre and 50 ½ Cents belongs to her by virtue of a Settlement Deed executed by her husband K.Duraisamy, registered as Document No.2753 of 2021 dated 15.09.2021 and till date the petitioner is in peaceful possession and enjoyment of the property. While so, the petitioner made an application dated 26.03.2022 for issuance of patta in favour of the petitioner, whereas, the respondent rejected the petitioner's application vide proceedings in Na.Ka.5348/2022/A2 dated 19.09.2022 stating that the above mentioned survey numbers have been classified as Ubari Nilam by the Government of Tamil Nadu. Aggrieved over the same, the petitioner has filed this Writ Petition.

3.The learned counsel appearing for the petitioner would submit that



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petitioner's application for grant of patta has been rejected by the respondent without providing an opportunity of hearing and passed the impugned order in Na.Ka.5348/2022/A2 dated 19.09.2022 and prayed for allowing this Writ Petition.

4.The learned Additional Government Pleader appearing for the respondent would submit that as against the order passed by the Tahsildar, in terms of Section 9 of the Tamil Nadu Survey and Boundaries Act, 1923 (herein after referred as Boundaries Act, 1923) as against the said order there is an effective appeal remedy available in terms of Section 11 of the Boundaries Act, 1923. The learned Additional Government Pleader further argued that the petitioner without exhausting the effective remedy available, filing this Writ Petition is not sustainable and therefore, pleaded to dismiss the Writ Petition.

5.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.



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6.Considering the above facts and circumstances of the same, as against the order passed by the Tahsildar, in terms of Section 9 of the Boundaries Act, 1923. There is an effective remedy available and without exhausting the alternative remedy available to the petitioner, filing the present Writ Petition is not sustainable one. Hence, the prayer sought for in this Writ Petition cannot be granted. In view of the above, this Writ Petition is dismissed . However, liberty is granted to the petitioner to file appropriate application in terms of Section 11 of the Boundaries Act, 1923, within a period of two weeks from the date of receipt of a copy of this order. On filing of such appeal, the competent authority is directed to pass appropriate order after providing an opportunity to the petitioner within a period of twelve weeks, thereafter.

7.This Writ Petition is accordingly is dismissed. No costs.

18.11.2022

Index: Yes/No
Internet: Yes/No
gba
To
The Tahsildar,



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Krishnagiri Taluk,
Krishnagiri District.

M.DHANDAPANI, J.

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