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W.P.No.33528 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.33528 of 2022
and WMP.Nos.32970 & 32971 of 2022

G.Veerassamy

... Petitioner

-Vs-

- 1.The Revenue Divisional Officer,
Chengalpet Revenue Division,
Chengalpet.
2. The Tahsildar,
Thiruporur Taluk,
Chengalpet District.
3. The Tahsildar,
Vandalur Taluk,
Chengalpet District.
4. Baldeep Constructions Private Limited,
No.2, 3rd Cross,
I Main Road, Devappa Garden,
Nagashetti Halli,
RMV stage II Extension,
Bangalore – 560 094.

... Respondents

Prayer : Writ Petitions under Article 226 of the Constitution of India
praying for the issuance of a Writ of Certiorarified Mandamus, calling for
the records of the proceedings in Patta No.1367 on the file of the 3rd



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respondent and to quash the same as illegal and without jurisdiction and consequently direct the third respondent to restore the name of the petitioner in the patta issued with respect to Plot No.8, Survey No.106/2 and 106/3, Karanai Village, Vandalur Taluk, Chengalpet.

For Petitioner : Mr.Govind Chandrasekhar
For Respondents : Mrs.Akil Rajendran
Government Advocate [R1 to R3]

ORDER

The prayer sought for in this writ petition is for a writ of certiorarified mandamus to quash the proceedings in Patta No.1367 on the file of the third respondent as illegal and without jurisdiction and consequently direct the third respondent to restore the name of the petitioner in the patta issued with respect to Plot No.8, Survey No.106/2 and 106/3, Karanai Village, Vandalur Taluk, Chengalpet.

2. Though such a prayer was sought for by the petitioner, Mr.Govind Chandrasekhar, learned counsel appearing for the petitioner, on instructions would submit that as against the impugned patta issued in favour of the fourth respondent, though the petitioner has got an appeal remedy under Section 12 of the Patta Passbook Act, 1983 due to some urgency, the petitioner has approached this Court by invoking



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extraordinary jurisdiction of this Court under Article 226 of the Constitution of India on the only ground that before the petitioner approaches the Revenue Divisional Officer by filing an appeal and take a decision by the Revenue Divisional Officer, the fourth respondent by taking advantage of the impugned patta may encumber the property in question and only in order to avoid the same and to get an extraordinary remedy, the petitioner has moved the present writ petition, he contented.

3. Heard Mrs.Akila Rajendran, learned Government Advocate appearing for the respondents 1 to 3, who would submit that, when a efficacious statutory appeal remedy is available under Section 12 of the Patta Passbook Act, 1983, the petitioner can very well invoke the same and if such an appeal is filed, even an interim arrangement can be made by the Revenue Divisional Officer based on the *prima facie* case. Therefore, that cannot be the creason for the petitioner to approach this Court directly by filing the present writ petition. Hence, the learned Government Advocate seeks dismissal of this writ petition.



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4. I have considered the submission made by the learned counsel appearing for both sides.

5. As has been rightly pointed out by the learned Government Advocate appearing for the respondents 1 to 3 that, it is open to the petitioner to make an appeal before the Revenue Divisional Officer concerned at the earliest, where even the petitioner can seek for an interim arrangement, if the petitioner is really apprehending some action on the part of the fourth respondent, who may create any encumbrance in the property in question during the pendency of the appeal, however that cannot be the reason for the petitioner to invoke the writ jurisdiction of this Court without filing an appeal before the Revenue Divisional Officer.

6. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders:

- ◆ Two weeks time is granted to the petitioner to make an appeal against the impugned patta issued in the name of the fourth respondent by the Tahsildar concerned to the Revenue Divisional Officer i.e, first respondent herein and once such an appeal is filed,



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where it is open to the petitioner to seek for an interim relief against the fourth respondent seeking some prohibitory order against the fourth respondent from encumbering the property in question covered under the impugned patta till the disposal of the appeal and if such interim relief is sought for by the petitioner, that also shall be considered and decided as a preliminary issue by the Revenue Divisional Officer at the earliest.

- ◆ At any rate, the first respondent shall decide the appeal to be filed by the petitioner as indicated above by giving notice to both sides and after hearing them within a maximum period of eight(8) weeks thereafter.

7. With these directions, this Writ Petition is disposed of. No costs.

Connected miscellaneous petition is closed.

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Index : Yes/No
Speaking order: Yes/No

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R. SURESH KUMAR, J.

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To

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2. The Tahsildar,
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