



W.P.(MD)No.26752 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.11.2022

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THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

W.P. (MD) No.26752 of 2022

Arumugam

.. Petitioner

Vs.

1.The District Collector,
Pudukkottai.

2.The District Revenue Officer,
Pudukkottai.

3.The Revenue Divisional Officer,
Illuppur, Pudukkottai District.

4.The Tahsildar,
Ponnamaravathy,
Pudukkottai District.

5.P.Saminathan

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the 1st to 4th respondents to cancel the patta stands in the name of the fifth respondent and consequently 1st to 4th respondents to issue fresh patta in the name of the petitioner in respect of the property in S.F.No.426/6 and 426/5B old S.F.No.366 with an extent of 20 1/2 cents situated at Melasivapuri, Ponnamaravathy Taluk, Pudukkottai District.



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For Petitioner : Mr.K.G.Arunkumar
For R1 to R4 : Mr.A.Kannan
Additional Government Pleader

ORDER

This Writ Petition has been filed for issuance of Writ of Certiorarified Mandamus, directing the respondents 1 to 4 to cancel the patta stands in the name of the fifth respondent and to issue fresh patta in the name of the petitioner in respect of the property in S.F.No.426/6 and 426/5B (old S.F.No. 366) to an extent of 20½ cents situated at Melasivapuri, Ponnamaravathy Taluk, Pudukkottai District.

2.Heard Mr.K.G.Arunkumar, learned counsel appearing of the petitioner and Mr.A.Kannan, learned Additional Government Pleader, who takes notice for the respondents 1 to 4. Considering the nature of the order proposed to be passed in this writ petition, notice to the fifth respondent is dispensed with. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3.The grievance of the petitioner is that the name of the fifth respondent, who is the adjacent land owner of the petitioner, has been inadvertently included in the patta of the petitioner's land.



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4. The learned counsel for the petitioner submitted that the property in S.F.No.426/6 and 426/5B (old S.F.No.366) to an extent of 20½ cents situated at Melasivapuri, Ponnamaravathy Taluk, Pudukkottai District belongs to the petitioner. He is in peaceful possession and enjoyment of the said property. While so, the name of the fifth respondent, adjacent land owner, has been inadvertently included in the patta with regard to the said property. Taking advantage of the same, the fifth respondent disturbed the peaceful possession and enjoyment of the property by the petitioner. Therefore, the petitioner filed a petition before the third respondent seeking to cancel the spurious patta issued by the fourth respondent in the name of fifth respondent and the same was dismissed. Hence, the petitioner filed a suit in O.S.No.32 of 2022 and the same is pending before the District Munsif Court, Thirumayam. Even thereafter, the fifth respondent is continuing to disturb the peaceful possession. Hence, the petitioner is before this Court with the aforesaid prayer.

5. The learned Additional Government Pleader appearing for the official respondents submitted that the claim of the petitioner has been considered and rejected by an order dated 13.10.2021. Against the said rejection order, the petitioner has an appeal remedy before the District Revenue Officer. This has been indicated in the order, dated 13.10.2021 itself. But, the petitioner, without availing the same, has filed the present writ petition.



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6. Admittedly, the order passed by the Revenue Divisional Officer is an appealable order under the Tamil Nadu Patta Passbook Act, 1983. An appeal ought to have been filed by the petitioner as indicated in the order dated 13.10.2021, but instead, the petitioner has filed this writ petition under Article 226 of the Constitution of India.

7. Since there is an alternate efficacious statutory appeal remedy available, this writ petition is not maintainable. Accordingly, this Writ Petition is closed with liberty to the petitioner to approach the District Revenue Officer by way of an appeal. No costs.

28.11.2022

Index : Yes/No
Internet : Yes/No
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V.BHAVANI SUBBAROYAN, J.

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Order made in
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