



W.P.Nos.21648 of 2012 & 23049 of 2013

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2023

CORAM

THE HONOURABLE MR.JUSTICE **S.M.SUBRAMANIAM**

W.P.Nos.21648 of 2012 & 23049 of 2013

and

M.P.Nos.1 & 2 of 2012 and M.P.Nos.1 to 3 of 2013

W.P.No.21648 of 2012:

V.S.Chandrasekar

... Petitioner

Vs

1. The Collector,
Vellore District,
Vellore.

2. The District Revenue Officer,
Vellore District,
Vellore.

3. The Tasildhar,
Vellore Taluk,
Vellore District.

4. The Executive Officer,
Arulmigu Tharakeswarar Thirukoil,
Vellore

... Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the entire records connected with the impugned order of the second respondent bearing Na.Ka.d2/6263/2012 dated 09.05.2012 and quash the same and consequently directing the second respondent herein to grant No Objection Certificate to the petitioner for construction of a Commercial Complex based on his patta.

For Petitioner : M/s.V.Srimathi

For Respondents :

For R1 to R3 : Mr.T.Arunkumar

Additional Government Pleader

For R4 : Mr.K.Karthikeyan

Government Advocate (HR&CE)

W.P.No.23049 of 2013:

V.S.Chandrasekar

... Petitioner

Vs

1. The State of Tamil Nadu,
Represented by the Director of Settlement,
Chepauk,
Chennai.
2. The District Revenue Officer,
Vellore District,
Vellore.



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3. The Revenue Divisional Officer,
Vellore.
4. The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Vellore.
5. Arulmigu Tharakeswarar Temple,
Thottapalayam,
Represented by its Executive Officer,
Vellore.
6. The Local Planning Authority,
Vellore, Vellore District,
Represented by its Member Secretary. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the third respondent in Na.Ka.A2/1079/2013 dated 15.07.2013 and quash the same and direct the respondents to maintain the individual patta granted in favour of the petitioner.

For Petitioner : Mr.M.Ramesh

For Respondents :

For R1 to R3 & R6: Mr.T.Arunkumar
Additional Government Pleader

For R4 & R5 : Mr.K.Karthikeyan
Government Advocate (HR&CE)



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5. The patta was initially granted in the name of the writ petitioner and the fourth respondent temple filed an application under the Patta Pass Book Act, 1983, to cancel the patta granted in favour of the writ petitioner. The Revenue Divisional Officer, Vellore, conducted an enquiry by affording an opportunity to all the parties and cancelled the patta granted in favour of the writ petitioner, mainly on the ground that the petitioner has not established his title over the patta.

6. The order impugned states that the petitioner is at liberty to prefer an appeal before the District Revenue Officer, Vellore, within a period of 30 days.

7. The petitioner has not chosen to file an appeal as contemplated under the provisions of the Tamil Nadu Patta Pass Book Act, 1983. The petitioner has filed a writ petition raising several grounds on merits, which cannot be adjudicated in the writ proceedings. The power of judicial review of the High Court under Article 226 of the Constitution of India, cannot be extended for the purpose of adjudication.



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8. Adjudication of disputed facts regarding the title, ownership or otherwise, are to be done with reference to the documents and evidence in original before the Civil Court of Law.

9. Admittedly the petitioner has not preferred an appeal as contemplated under the said Act. The Revenue Divisional Officer in the impugned order has stated that the petitioner is at liberty to prefer an appeal exhausting the appellate remedy is the rule and entertaining a writ petition is an exception. Findings of the Original Authority and the Appellate Authority will be of greater assistance to the High Court for the purpose of exercising power of judicial review in an effective manner.

10. That apart, the learned Additional Government Pleader appearing on behalf of the first to third respondent and the learned Government Advocate appearing on behalf of the HR&CE Department made a submission that the temple filed O.S.No.158 of 2007 and a decree was already passed in favour of the temple. Based on the decree, execution proceedings are also instituted and this being the factum, the



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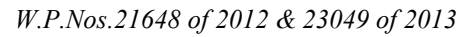
Revenue Authorities cannot decide the issues regarding cancellation of patta or otherwise.

11. Copy of the decree passed in O.S.No.158 of 2007, has been submitted before this Court. This being the factum, the parties have to resolve the issues through Civil Court of Law and the Revenue Authorities are bound by the decree already passed by the Civil Court of Law.

12. Section 14 of the Tamil Nadu Patta Pass Book Act, 1983, reads as under:-

“14. Bar of suits.- No suit shall lie against the Government or any officer of the Government in respect of a claim to have an entry made in any patta pass book that is maintained under this Act or to have any such entry omitted or amended:

Provided that if any person is aggrieved as to any right of which he is in possession, by an entry made in the patta pass book under this Act, he may institute a suit for a declaration of his rights under Chapter VI of the Specific Relief Act, 1963 (Central Act 47 of 1963); and the entry in the patta pass book shall be amended in accordance with any such declaration.”



14. With these observations and directions, the writ petition stands dismissed. Accordingly, W.P.No.21648 of 2012, is also dismissed. No cost. Consequently, connected miscellaneous petitions are closed.

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Index : Yes/ No
Neutral Citation : Yes/No
Speaking/Non-speaking Order
rgm



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S.M.SUBRAMANIAM, J.

rgm

9. The Executive Officer,
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10. Member Secretary,
The Local Planning Authority,
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