



WA No.3535 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WA No.3535 of 2023

1.Selvi

2.Mayalagan

: Appellants

versus

1.The District Collector

District Collectorate, Kallakurichi & District.

2.The District Revenue officer

District Collectorate, Kallakurichi & District.

3.The Revenue Divisional Officer

Kallakurichi and District.

4.The Tahsildar

Chinnasalem Taluk, Kallakurichi District.

5.S.Periyasamy

6.K.Rajendran

7.S.Selvarasu

8.N.Paneerselvam

9.S.Murugesan

10.K.Desinguraja

11.K.Chinnthambi

12.S.Arunachalam

13.P.Alamelu

14.N.Malar

15.R.Madeswaran

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16.P.Ayyam Perumal
17.T.Thangarasu

: Respondents

Prayer: Writ appeal filed under Clause 15 of the Letters Patent against the order of the learned Single Judge in W.P.No. 3410 of 2022 dated 09.08.2023.

For the Appellants : Mr.Kamalanathan,
for Mr.V.Gunasekar

For the Respondents : Mr.P.Muthukumar,
State Government Pleader,
for respondents 1 to 4

JUDGMENT

(Made by the Hon'ble Chief Justice)

We have heard Mr.Kamalanathan, learned counsel for the appellants and Mr.P.Muthukumar, learned State Government Pleader, appearing for respondents 1 to 4.

2. In the writ petition, the appellants/original writ petitioners have challenged the order dated 22.12.2021 passed by the Revenue Divisional Officer. It appears that the appellants have submitted an application for grant of patta.



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3. The Revenue Divisional Officer passed an order asking the Tahsildar, Chinnasalem, to make sub-divisions by creating a pathway. The said order was assailed in the writ petition. The Court observed that an appeal is already filed by the appellants before the District Revenue Officer. The Court directed the District Revenue Officer to conduct an inquiry and pass orders. The writ petition was accordingly disposed of.

4. The learned counsel for the appellants submits that it was erroneous on the part of the Revenue Divisional Officer to have passed the impugned order in the writ petition. He did not possess the necessary jurisdiction to pass such an order. Since he did not possess the jurisdiction, the writ petition was maintainable. On merits, aspects ought to have been considered.

5. In fact, when the appellants have already filed an appeal before the District Revenue Officer, they ought not to have filed the writ petition. There cannot be two remedies against the same order.



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6. It is submitted that subsequent to the decision in the writ petition, the District Revenue Officer has passed an order in the appeal. If the appellants are aggrieved, they can challenge the said order. The appellants can also file their reply to the notice issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905, which reply has to be considered by the authorities before proceeding under Section 6 of Act of 1905.

7. In case the appellants challenge the order passed by the District Revenue Officer, all contentions are kept open.

8. The writ appeal stands disposed of. There shall be no order as to costs. Consequently, CMP No.28886 of 2023 is also closed.

(S.V.G., CJ.)

(D.B.C., J.)

20.12.2023

Index : Yes/No

Neutral Citation : Yes/No

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