



W.A(MD)No.1169 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.07.2023

CORAM:

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**
and
THE HONOURABLE **MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.A(MD)No.1169 of 2023
and
C.M.P(MD)No.8931 of 2023

S.V.S.Gowthamaraja

... Appellant/Petitioner

Vs.

- 1.The District Collector,
Madurai District,
Collectorate,
Madurai – 625020.
- 2.The District Revenue Officer,
District Revenue Office,
Madurai District,
Madurai – 625 020.
- 3.The Assistant Director of Town Panchayats,
O/o.The Assistant Director of Town Panchayats,
Collectorate, Madurai – 625020.
- 4.Sholavandan Town Panchayat,
Rep. by its Executive Officer,
Sholavandan Post,
Vadipatti Post,
Madurai District.



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... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 29.06.2022 made in W.P(MD)No.11118 of 2022.

For Appellant	:Mr.M.Venkatesan
For R-1 to R-4	:Mr.D.Sachikumar, Additional Government Pleader
For R-5	:Mr.D.senthil

JUDGMENT

(Judgment of the Court was delivered by **S.S.SUNDAR, J.**)

Heard Mr.D.Senthil, learned counsel for the appellant, Mr.D.Sachikumar, learned Additional Government Pleader, who takes notice for respondents 1 to 4 and Mr.D.Senthil, learned counsel, who takes notice for the fifth respondent.

2. This writ appeal is directed against the order dated 29.06.2022 in W.P(MD)No.11118 of 2022, passed by the learned Single Judge dismissing the writ petition filed by the appellant.



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3. The appellant/writ petitioner is a resident of Solaikurichi Village. He filed the writ petition seeking for issuance of a Writ of Mandamus, directing the respondents 1 to 4 not to give any building plan approval as well as any building construction permission to the fifth respondent in patta No.1353, comprised in S.No.126A/2 to an extent of 648 sq. feet of Solaikurichi Village, Vadipatti Taluk, Madurai District, based on the representation. dated 20.04.2022.

4. It is the case of the appellant that the fifth respondent is putting up construction in a public pathway. However, the appellant has not produced any document to show that the construction is put up in a public property or in a property which is classified as a pathway.

5. The learned Single Judge has found that the fifth respondent has produced patta to show that the construction is put up by the fifth respondent only in his patta land. In such circumstances, the learned Single Judge has no other option except to dismiss the writ petition rejecting the request of the writ petitioner.



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6. The learned Single Judge in Paragraph No.3 of the order, has observed as follows:

“It is not possible either for this Court or the planning authority to construe the said documents and arrive at the conclusion as sought for by the petitioner. The petitioner has moved the jurisdictional civil Court and filed a suit for appropriate relief. There is no restraint order passed by the jurisdictional civil Court. The planing authorities will of course consider the case of the fifth respondent on merits and in accordance with law. I make it clear that the outcome of this writ petition will not weaken the case of the petitioner nor strengthen the case of the fifth respondent. This writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.”

7. It is now brought to the notice of this Court that appellant's cousin brother has also filed a civil suit and the same is also pending. Further, it is represented by the learned counsel appearing for the fifth respondent that yet another cousin brother of the petitioner has moved the Revenue Officials for cancellation of patta. In such circumstances, this Court finds no merit in this writ appeal as the appellant has effective alternative remedy to approach the civil Court to establish his case.



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8. In view of the above, this Court finds no reason to interfere with the order passed by the learned Single Judge. Therefore, this writ appeal is dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [D.B.C., J.]
27.07.2023

Index : Yes / No
NCC : Yes/No
pm

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and

D.BHARATHA CHAKRAVARTHY, J.

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