



W.P.(MD)No.3049 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :23.03.2023

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)No.3049 of 2016

1.M.Piraman
2.M.Aandi
3.M.Rajendran

... Petitioners

Vs.

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Tahsildar,
Kadaladi Taluk,
Kadaladi,
Ramanathapuram District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the second respondent vide ஓ.முபி1/14813/2015 dated 03.12.2015 and quash the same as illegal and consequently direct the respondents to conduct fresh enquiry.



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For Petitioner :Mr.K.C.Ramalingam
For Respondents :Mr.S.Kameswaran
Government Advocate

ORDER

The petitioners assail an order dated 03.12.2015 of the second respondent by which the request for patta was rejected.

2. Learned counsel appearing for the petitioners submits that the petitioners have resided in the property bearing Survey No.263/6 for a considerable period of time. In fact, he states that the said property was originally in possession and enjoyment of the petitioners' grand mothers. He further states that pattas were granted in respect of adjoining properties and that the petitioners have been discriminated against. In support of this contention, he relies upon page No.6 of the additional affidavit, which indicates the four boundaries of Survey No.263/6. According to him, patta has been issued to the owners of the lands on the north, south and east of their property.



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3. These contentions are refuted by learned Government Advocate. Learned Government Advocate relies upon the 'A' Register, which classifies Survey No.263/6 as Karunkulam Kanmai Neerpidi. Therefore, he submits that the impugned order does not call for any interference since patta cannot be issued in relation to a water body. He further submits that an appellate remedy is provided against the impugned order and that this writ petition is liable to be dismissed because the writ petitioners failed to avail of the statutory remedy.

4. The records reveal that Survey No.263/6 is currently classified as a water body. The learned counsel appearing for the petitioners asserts that such classification is incorrect as evidenced by the fact that pattas were issued in respect of all the adjoining properties. The question as to whether the classification is erroneous involves disputed questions of fact and cannot be effectively addressed while exercising jurisdiction under Article 226 of the Constitution of India. As correctly pointed out by learned Government Advocate, the petitioners have an alternative remedy.



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5. Therefore, W.P(MD).No.3049 of 2016 is disposed of by granting leave to the petitioners to assail the impugned order by way of an appeal before the jurisdictional Revenue Divisional Officer. If such appeal is filed within 30 days from the date of receipt of a copy of this order, such appeal shall be considered and disposed of on merits, without taking into account the question of limitation. There shall be no order as to costs.

23.03.2023

NCC :No
Internet :Yes
Index :No
ssb

To

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Ramanathapuram District,
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Ramanathapuram District.



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SENTHILKUMAR RAMAMOORTHY, J.

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