



W.P. No. 35465 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2024

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 35465 of 2023

and

W.M.P. Nos. 35438, 35440 and 35441 of 2023

K.Dinakaramohan

... Petitioner

-VS-

1. The District Collector,
Tirupattur District,
Collectorate,
Tirupattur - 635 601.
2. The Assistant Director,
Town and Country Planning,
Tirupattur District,
Tirupattur - 635 601.
3. The Block Development Officer,
Natrampalli Panchayat Union,
Natrampalli - 635 852.
4. The Assistant Director,
Land Survey and Records Department,
Collectorate,
Vellore – 632 001.
5. The Tahsildar,
Vaniyambadi Taluk,
Vaniyambadi,
Tirupattur District.



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6. The Joint Sub Registrar No. II,
Vaniyambadi Registration Office,
Vaniyambadi – 635 751,
Tirupattur District.

7. The President,
Ambalur Village Panchayat,
Ambalur – 635 801,
Tirupattur District.

8. D.Sathiyaseelan

9. P.Parameshwaran

10. K.Murugan

11. M.Rathika

12. The Assistant Engineer,
Tamil Nadu Electricity Board,
Thimmampettai,
Ambalur Via,
Vaniyambadi Taluk,
Tirupattur District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings regularizing the layout plan in respect to the lands bearing S. Nos. 132 and 138/2 in Ambalur Village, Vaniyambadi Taluk, Tirupattur District in Na. Ka. No. 6925/2018/TheMa.2 dated 14.12.2020, on the file of the Second respondent herein, and the consequential Regularization Order No. 23(R)/2020, dated Nil, and the consequential Approval Order in Na. Ka. Aa1/001 dated 14.02.2022 on the file of the Seventh respondent herein, and to quash the same and directing the respondents 1 and 5 to open the culvert/sluice for the flow of the irrigation water from the land bearing S. Nos. 138/1, Ambalur Village, Tirupattur Taluk and District, belonging to the



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petitioner to the lands bearing S. Nos. 1332, 128/1A and 128/1B in Ambalur Village, Tirupattur Taluk.

For Petitioner : Ms. Elizabeth Ravi

For Respondents : Mr. P.Ganesan,
Additional Government Pleader
(for R1, R2, R4 to R6)

Mr. K.Karthikeyan (for R3 & R7)

Dr. N.Vijayraj (for R9)

Mr. M.Sudhakar
for M/s. Karan & Uday (for R10)

Mr. L.Jai Venkatesan (for R12)

No appearance (for R8 & R11)

ORDER

Heard Ms. Elizabeth Ravi, Learned Counsel for the Petitioner and Mr. P.Ganesan, Learned Additional Government Pleader appearing for the First, Second and Fourth to Sixth Respondents, Mr. K.Karthikeyan, Learned Counsel appearing for the Third and Seventh Respondents, Dr. N.Vijayraj, Learned Counsel appearing for the Ninth Respondent, Mr. M.Sudhakar, Learned Counsel appearing for the Tenth Respondent and Mr. L.Jai Venkatesan, Learned Counsel appearing for the Twelfth Respondent and perused the materials placed on record, apart from the pleadings of the parties.



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2. The grievance ventilated by the Petitioner is that an unapproved lay-out has been formed in agricultural lands belonging to the Eighth to Eleventh Respondents, which has been illegally regularized by Proceedings in Na. Ka. No. 6925/2018/ThiMa2 dated 14.12.2020 issued by the Second Respondent and Order in Na. Ka. No. Aa1/001/2022 dated 14.02.2022 passed by the Seventh Respondent under the Tamil Nadu Regularization of Unapproved Layouts and Plots Rules, 2017 (hereinafter referred to as 'the Rules' for short), and as it prejudicially affects the agricultural operations in the neighbouring lands of the Petitioner, they have been assailed in this Writ Petition.

3. It is brought to notice by Learned Additional Government Pleader appearing for the First, Second and Fourth to Sixth Respondents that the Petitioner is entitled to prefer appeal against the impugned orders under Rule 17 of the Rules, before the Director of Town and Country Planning in areas other than Chennai Metropolitan plan area within 30 days from the date of their receipt and if there is any delay in filing such appeal, it could be condoned if sufficient cause is made out.



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4. It must, at once, be emphasized that the Hon'ble Supreme Court of India in *Assistant Collector of Central Excise -vs- Dunlop India Limited* [(1985) 1 SCC 260] has precisely explained the legal position relating to the exercise of discretionary powers under writ jurisdiction when an alternative remedy exists, in the following words:-

"3. Article 226 is not meant to short-circuit or circumvent statutory procedures. It is only where statutory remedies are entirely ill-suited to meet the demands of extraordinary situations as for instance where the very vires of the statute is in question or where private or public wrongs are so inextricably mixed up and the prevention of public injury and the vindication of public justice require it that recourse may be had to Article 226 of the Constitution. But then the Court must have good and sufficient reason to by-pass the alternative remedy provided by statute. Surely matters involving the revenue where statutory remedies are available are not such matters. We can also take judicial notice of the fact that the vast majority of the petitions under Article 226 of the Constitution are filed solely for the purpose of obtaining interim orders and thereafter prolong the proceedings by one device or the other. The practice certainly needs to be strongly



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discouraged.”

In **Nivedita Sharma -vs- Cellular Operators Association of India** [(2011) 14 SCC 337], advertent to the the previous decisions with regard to the rule of self-restraint when an alternative remedy is available to the aggrieved person, the Hon'ble Supreme Court of India has emphasized that when a statutory forum is created by law for redressal of grievance, a Writ Petition should not be ordinarily entertained ignoring that statutory dispensation. Further, the law has been restated by the Hon'ble Supreme Court of India in **Radha Krishan Industries -vs- State of Himachal Pradesh** [(2021) 6 SCC 771] as extracted below:-

“27.1. *The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well.*

27.2. *The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person.*

27.3. *Exceptions to the rule of alternate remedy arise where : (a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution; (b)*



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there has been a violation of the principles of natural justice; (c) the order or proceedings are wholly without jurisdiction; or (d) the vires of a legislation is challenged.

27.4. *An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law.*

27.5. *When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion.*

27.6. *In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with.”*

In such circumstances, the Petitioner has not been impeded from canvassing



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what is sought to be agitated in this Writ Petition in the aforesaid statutory remedy and there is no acceptable explanation from the Petitioner for not having availed it.

5. When the same was pointed out to Learned Counsel for the Petitioner, she seeks permission of the Court to withdraw the Writ Petitioner with liberty to resort to the aforesaid procedure. She has also made an endorsement to that effect in the court record.

In the result, the Writ Petition is dismissed as withdrawn granting such liberty. It is made clear that for the purpose of reckoning limitation for availing the aforesaid remedy, the period from the date of filing of the Writ Petition, viz., 18.12.2023, till the date on which the certified copy of this order is made ready by the Registry, shall be excluded. Since an interim order staying the impugned order has been granted by this Court on 20.12.2023, it shall continue to be in force till 31.03.2024. It is needless to add here that no view has been expressed by the Court on merits of the controversy involved in the matter and it would not preclude the Authority before whom the appeal is preferred from passing any order, final or interim, may be deemed fit, uninhibited and uninfluenced by any of the earlier orders passed in this Writ Petition. Consequently, the



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connected Miscellaneous Petitions are closed. No costs.

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Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 12.03.2024.

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To

1. The District Collector,
Tirupattur District,
Collectorate,
Tirupattur - 635 601.
2. The Assistant Director,
Town and Country Planning,
Tirupattur District,
Tirupattur - 635 601.
3. The Block Development Officer,
Natrampalli Panchayat Union,
Natrampalli - 635 852.
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Thimmampettai,
Ambalur Via,
Vaniyambadi Taluk,
Tirupattur District.

Copy to

1. D.Sathiyaseelan,
S/o. Dhanarathina Gounder,
Ambalur – 635 801,
Tirupattur District.

2. M.Rathika,
W/o. K.Murugesan,
No. 10, Rajaveethi,
Ambalur – 635 801,
Tirupattur District.



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P.D. AUDIKESAVALU, J.

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