



W.A.(MD)No.1003 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2024

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CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

and

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.A.(MD)No.1003 of 2024

and

C.M.P.(MD)No.7259 of 2024

Tamilselvi

: Appellant

Vs.

1.The Commissioner of Land Administration,
Land Administration Department,
Ezhilagam, 2nd Floor,
Chepauk, Chennai-600 005.

2.The District Revenue Officer,
Collectorate Campus,
Virudhunagar,
Virudhunagar District.

3.The Revenue Divisional Officer,
Sivakasi, Virudhunagar District.

4.The Tahsidlar,
Taluk Office,
Srivilliputhur,
Virudhunagar District.

5.The Commissioner,
Srivilliputhur Municipality,
Srivilliputhur,
Virudhunagar District.

: Respondents



PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent Act, to set aside the order dated 18.03.2024 passed in W.P. (MD) No. 6550 of 2024 on the file of this Court.

For Appellant : Mr.R.Murugappan

For Respondents : Mr.S.Shaji Bino

Special Government Pleader

JUDGMENT

[Judgment of the Court was delivered by **R.SURESH KUMAR, J.**]

In respect of the land to an extent of 0.0013.0 sq.meter at Town Survey No.1086, Ward No.1, Srivilliputhur Town and Taluk, Virudhunagar District, it is the claim of the appellant/writ petitioner that the land belongs to her. In this regard, when UDR survey was undertaken, the land has been shown as a Government land ie., 'Pathway'. In order to make correction in the UDR entry, the appellant/writ petitioner approached the District Revenue Officer /second respondent. The District Revenue Officer/District Collector having considered the merits of the case, passed a detailed order on 29.01.2024, whereby the plea of the appellant/writ petitioner has been rejected. Aggrieved over the said order passed by the second respondent, the appellant/writ petitioner preferred an appeal before the first respondent/Commissioner of Land Administration. The first respondent vide order dated



27.02.2024, passed a short order driving the petitioner/appellant to go before the Civil Court. The relevant portion of the said order reads thus:-

“3) AS per G.O.Ms.385, Revenue (Gen-3) Department dated 17.08.2004, the District Revenue officer is the competent authority to rectify the defects arisen during UDR and accordingly, the District Collector/District Revenue Officer (IC), Virudhunagar, has adjudicated the issue. Similarly, the Hon'ble High Court of Madras in its order dated 27.09.2022 in W.P. No. 25901 of 2022 has observed that, this office (Commissioner of Land Administration) is not the competent authority to proceed the matter. Further, the Hon'ble Madurai Bench of Madras High Court in its judgment in W.P. (MD) No. 10492/2020 and W.M.P. (MD) No. 9286 of 2020 dated 31.08.2020 has given clear direction about the competency of Civil Court and to seek remedy through Competent Civil Court. Hence, the petitioner is hereby directed to seek remedy through Competent Civil Court.”

2. Aggrieved over the said approach of the first respondent in rejecting the appeal outrightly, by driving the appellant /writ petitioner to approach the civil Court without going into the merits of the case, the appellant/writ petitioner approached the writ Court by filing a writ petition in W.P. (MD) No. 6550 of 2024. The writ Court had dismissed the said writ petition by passing the following order:



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“Heard both sides.

2.The stand of the revenue authority is that the petition mentioned survey number has been classified as pathway and that therefore, patta cannot be issued. If the petitioner has any pre-existing right, it is open to the petitioner to file a civil suit for establishing her rights.

3.With this liberty to the petitioner, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.”

3.Challenging the same, the present writ appeal has been directed.

4.Heard Mr.R.Murugappan, learned counsel for the appellant and Mr.S.Shaji Bino, learned Special Government Pleader, who accepts notice for the respondents.

5.The learned Special Government Pleader would submit that, insofar as the merits of the case is concerned, with regard to the claim made by the appellant/writ petitioner that correction in the UDR entry and issuance of patta for the land in question, it has been exhaustively dealt with by the District Revenue Officer and an order has been passed on 29.01.2024, rejecting the claim of the petitioner/appellant.



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6. When the appellant/petitioner does not have any right to claim patta or correction in the UDR and in this regard, if at all she wants to establish her right, she has to approach only the civil Court and in this regard, the Commissioner of Land Administration does not have any role to play, therefore, driving the appellant/writ petitioner to the civil Court, the first respondent has passed an order on 27.02.2024. The said approach of the Commissioner of Land Administration /first respondent cannot be found fault with. Therefore, the appeal itself is misconceived. Instead of going to the civil Court, since the appellant has come before this Court, as directed by the learned Single Judge in the order impugned in this writ appeal, both orders are to be sustained. Therefore, no interference is called for in the order impugned passed by the learned Single Judge, the learned Special Government Pleader contended.

7. The learned Counsel for the appellant/writ petitioner submitted that the land in question belongs to the appellant and during UDR survey only, it has been wrongly classified as pathway in the revenue entry. Therefore, if any wrong entry is made in the UDR Register after UDR survey, that can be rectified and in this regard, based on the knowledge of the wrong entry, that has been entered in the UDR



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register, if any application is made, the competent authority to deal with the matter is no doubt the District Revenue Officer. Though he passed an order in detail, where the claim of the petitioner/appellant has not been considered in proper perspective, he approached the appellate authority, that is the first respondent. However, the first respondent without going into the merits of the case, drove the appellant /writ petitioner to go before the civil Court. The said approach of the first respondent is erroneous. However, when that was questioned before the writ Court, the writ Court also in a very short order has simply dismissed the writ petition by recording the stand of the first respondent in one line, that patta cannot be issued to the petitioner and if at all she is having pre-existing right, it is open to her to approach the civil Court to establish her right. By citing these reasons, the writ petition has been dismissed and that order warrants interference from this Court, he contended.

8.We have considered the said rival submissions made by both sides and perused the materials placed before this Court.

9.The order passed by the first respondent dated 27.02.2024 has been extracted hereinabove. In the said order, the first respondent



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Instead, the Commissioner of Land Administration had simply directed the appellant/writ petitioner to go before the civil Court and the said stand has also been accepted by the writ Court in the order impugned.

11.This approach of the first respondent, as has been confirmed by the writ Court, cannot be accepted for the reason that, whenever there is an appeal filed, it is the continuation of the original proceedings. When that being so, as an appellate authority, he sits upon the original order passed by the authorities concerned and correctness of the said order has to be gone into. Without going into the merits of the order, which was challenged before the appellate authority, if these kind of cryptic orders are passed by the appellate authority, that cannot be accepted as a fair disposal of the appeal. Therefore, this Court has no hesitation to hold that the order passed by the first respondent/appellate authority dated 27.02.2024 warrants interference. Therefore, the order impugned herein passed by the writ Court also naturally warrants interference.

12.Resultantly, the following orders are passed in this appeal:



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(a) The order passed by the writ Court is hereby set aside and as a sequel, the order passed by the appellate authority, that is the first respondent dated 27.02.2024 also is set aside and the matter is remitted back to the first respondent/the appellate authority for reconsideration and rehearing, where the merits of the order that was impugned before him, passed by the District Revenue Officer, has to be gone into and after giving an opportunity of being heard to the appellant/writ petitioner, orders shall be passed on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order.

13.With these directions, the Writ Appeal is ordered. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

[R.S.K.,J.] & [G.A.M.,J.]

13.06.2024

Neutral Citation : Yes/No

Index : Yes/No

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To

1. The Commissioner of Land Administration,
Land Administration Department,
Ezhilagam, 2nd Floor,
Chepauk, Chennai-600 005.

2. The District Revenue Officer,
Collectorate Campus,
Virudhunagar,
Virudhunagar District.

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R.SURESH KUMAR, J.
and
G.ARUL MURUGAN, J.

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ORDER MADE IN
W.A.(MD)No.1003 of 2024

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