



W.P.(MD)No.28224 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.11.2024

CORAM:

THE HONOURABLE **MRS.JUSTICE N.MALA**

W.P.(MD)No.28224 of 2024

Mohaideen Jumma Masjith and Matharasa

Rep. by its President,

M. Abbas,

S/o Musthafa,

V.Needankulam, Verathanur Post

South Taluk, Madurai District

... Petitioner

/Vs./

1.The District Collector,
Madurai District, Madurai.

2.The Revenue Divisional Officer,
Madurai, Madurai District.

3.The Tahsildar,
South Taluk, Madurai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of certiorarified Mandamus, calling for the records of the impugned order dated 22.07.2024 passed by 3rd respondent and quash the same as illegal and consequently directing the 3rd respondent to issue patta comprised in Survey No.24 part, situated at V.Nedunkaulam village, Veruthanur Post, Madurai South Taluk, Madurai District.

For Petitioner	: Mr.P.Muthu Vijayapandian
For R1 to R3	: Mr.M.Muthumanikkam
	Government Advocate



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ORDER

This Writ Petition is filed challenging the impugned order dated 22.07.2024 passed by the third respondent and for consequential direction to the third respondent to issue patta comprised in Survey No. 24 part, in V.Nedunkaulam village, Veruthanur Post, Madurai South Taluk, Madurai District.

2. The petitioner applied for patta in his favour for the subject property to the third respondent on 21.08.2023. As no action was taken by the third respondent on the petitioner's representation, the petitioner filed WP(MD)No.29208 of 2023 and this Court by order dated 12.12.2023 directed the third respondent to consider the petitioner's representation and pass orders within a period of twelve weeks. Thereafter, the third respondent passed the impugned order dated 22.07.2024. Aggrieved by the same, the petitioner filed the above Writ Petition for the aforesaid relief.

3. The petitioner in his affidavit has not stated anything about the



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alternate remedy. It is seen that under Section 12 of Patta Passbook Act, the petitioner has remedy of appeal to the second respondent, the Revenue Divisional Officer, against the order of the third respondent. The petitioner, without exhausting the alternate remedy provided under the statute, has approached this Court directly.

4. In my view, the Writ Petition filed without exhausting the alternate remedy provided under the statute cannot be entertained. When an alternative and efficacious remedy is available to the petitioner under the statute, in the absence of any compelling and justifiable reasons, the petitioners cannot be allowed to by-pass the remedy. I am fortified in my view by the judgment of the Hon'ble Supreme Court of India in **Commissioner of Income Tax and Others Vs. Chhabbil Dass Agarwal** reported in **2014(1)SCC 603**. The relevant para reads as follows:

"15. Before discussing the fact proposition, we would notice the principle of law as laid down by this Court. It is settled law that non-entertainment of petitions under writ jurisdiction by the High Court when an efficacious alternative remedy is available is a rule of self-imposed limitation. It is essentially a rule of policy, convenience and



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discretion rather than a rule of law. Undoubtedly, it is within the discretion of the High Court to grant relief under Article 226 despite the existence of an alternative remedy. However, the High Court must not interfere if there is an adequate efficacious alternative remedy available to the petitioner and he has approached the High Court without availing the same unless he has made out an exceptional case warranting such interference or there exist sufficient grounds to invoke the extraordinary jurisdiction under Article 226. (See: State of U.P. vs. Mohammad Nooh, AIR 1958 SC 86; Titaghur Paper Mills Co. Ltd. vs. State of Orissa, (1983) 2 SCC 433; Harbanslal Sahnia vs. Indian Oil Corpn. Ltd., (2003) 2 SCC 107; ,State of H.P. vs. Gujarat Ambuja Cement Ltd. (2005) 6 SCC 499)".

5. Therefore, without going into the merits of the case, liberty is given to the petitioner to approach the second respondent within a period of two weeks from the date of receipt of a copy of this order. In case, the petitioner approaches the second respondent within two weeks, the second respondent shall consider the appeal without reference to limitation. If the petitioner approaches beyond two weeks, it is open to the second respondent to consider the appeal even on the point of limitation.



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6. With the above directions, this Writ Petition is disposed of. No costs.

27.11.2024

Index : Yes / No
NCC : Yes / No
CM

TO:

1.The District collector,
Madurai District,
Madurai.

2.The Revenue Divisional Officer,
Madurai,
Madurai District.

3.The Tahsildar,
South Taluk,
Madurai District.



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N.MALA, J.

CM

Order made in
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Dated:
27.11.2024