BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.12.2024

CORAM

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.(MD)No.29581 of 2024

E.Jainulabudeen ... Petitioner

Vs.

1.The District Collector,
Karur Collectorate Office,
Karur District.

2.The Revenue Divisional Officer,
RDO Office, Kulithalai,
Karur District.

3.The Thasildar,
Thasildar Office,
Kadavur Taluk,
Karur District.

4.The Village Administrative Officer,
Mylampatti Village,
Keelapaguthi,
Kadavur Taluk,
Karur District. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order in Na.Ka.No.A1/3348/2023, dated 20.09.2024 passed by the third respondent and quash the same as illegal and consequently directing the third respondent not to cancel the patta (Patta No.4040, S.No.276/3, Keelapaguthy Village, Kadavur Taluk, Karur District) which was already given.

For Petitioner : M/s..N.Juliet Latha

For Respondents : Mr.M.Muthumanikkam
Government Advocate

ORDER

The writ petition has been filed challenging the order passed by the third respondent, dated 20.09.2024 and consequently, directing the third respondent not to cancel the patta in Patta No.4040.

2. The petitioner was issued assignment patta on 18.01.2011, for the lands in S.No.276/3 to an extent of 014.0 ares, in Mylampatti Keelapaguthi Village, Kadavur Taluk, Kulithalai Revenue Group, Karur District. Ever since the assignment in his favour, the petitioner was in peaceful possession and enjoyment of the property. While so, the petitioner executed a settlement deed, dated 06.12.2019, in favour of his wife, who in turn sold the said property to his daughter on 13.01.2023. The petitioner's daughter was issued patta in Patta No.4040, by the third respondent for the subject property. The petitioner on the basis of the Tharkasthu No.A1/3368/2010, applied for patta in his favour to the third respondent. The third respondent rejected the petitioner's application

stating that the lands belonged to one Nagoor Rawthar son of Mohammed Yusuf in Patta No.1798. Aggrieved by the same, the petitioner filed writ petition in W.P(MD)No.28322 of 2023, and this Court vide order dated 01.12.2023 directed the third respondent herein to consider and pass orders on the petitioner's representation on merits and in accordance with law within a period of 12 weeks, from the date of receipt of a copy of the order. In pursuance of the order of this Court, enquiry was conducted and based on the enquiry, the third respondent herein by the impugned order rejected the petitioner's application. Aggrieved by the same, the petitioner filed the writ petition for the aforesaid relief.

3. The learned Government Advocate for the respondents submitted that against the order of the third respondent, an appeal lies to the second respondent under Section 12 of the Tamil Nadu Patta Passbook Act. The learned Government Advocate further submitted that without exhausting the statutory remedy, the petitioner has approached this Court and therefore, the writ petition deserved to be dismissed.

4. Admittedly the impugned order rejecting the petitioner's application for grant of patta is appealable under Section 12 of the Tamil Nadu Patta Passbook Act, 1987. The writ petitioner has not whispered about the alternate remedy or

its efficacy, leave alone the compelling reasons for by passing the same. The petitioner has directly approached this Court bypassing the statutory remedy. As rightly contended by the learned Government Advocate, in the absence of any justification or other compelling reasons for bypassing the statutory remedy, the writ petition deserves to be dismissed on the short ground of availability of alternate remedy under the statute. The Hon'ble Supreme Court in the case of ***The Commissioner of Income Tax and others Vs Chhabil Dass Agarwal*** reported in ***2014 1 SCC 603*** held as follows:

> *"14. In Union of India vs. Guwahati Carbon Ltd., (2012) 11 SCC 651, this Court has reiterated the aforesaid principle and observed:*
>
> > *"8. Before we discuss the correctness of the impugned order, we intend to remind ourselves the observations made by this Court in Munshi Ram v. Municipal Committee, Chheharta, (1979) 3 SCC 83. In the said decision, this Court was pleased to observe that:*
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> > > *"23. ... when a revenue statute provides for a person aggrieved by an assessment thereunder, a particular remedy to be sought in a particular forum, in a particular way, it must be sought in that forum and in that manner, and all the other forums and modes of seeking [remedy] are excluded.""*
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> *15. Thus, while it can be said that this Court has recognized some exceptions to the rule of alternative remedy, i.e., where the statutory authority has not acted in accordance with the provisions of the enactment in question, or in defiance of the fundamental principles of judicial procedure, or has resorted to invoke the provisions which are repealed, or when an order has been passed in total violation of the principles of natural justice, the proposition laid down in Thansingh Nathmal case, Titagarh Paper Mills case and other similar judgments that the High Court will not entertain a petition under Article 226 of the Constitution if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance still*

holds the field. Therefore, when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation."

5. In view of the above discussions, the writ petition is dismissed. In any event, the petitioner is given liberty to approach the second respondent under Section 12 of the Tamil Nadu Patta Passbook Act, by way of appeal within a period of 2 weeks, from the date of receipt of a copy of this order. In case, the petitioner approaches the second respondent within the stipulated time, the second respondent is directed to entertain the appeal without reference to limitation. The respondents on receipt of the appeal shall pass orders on merits and in accordance with law, within a period of 10 weeks thereafter. It is made clear that if the petitioner fails to file the appeal within stipulated time, it is open to the second respondent to consider the question of limitation while deciding the appeal. No costs.

09.12.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
SN

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N.MALA, J.

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