



W.P.(MD)No.30073 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **13.12.2024**

CORAM:

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

W.P.(MD)No.30073 of 2024

and

W.M.P.(MD)No.25305 of 2024

A.Thaiyalnayagi

...Petitioner

/Vs./

1. The District Collector,
Thanjavur District, Thanjavur.
2. The District Revenue Officer,
Thanjavur, Thanjavur District.
3. The Revenue Divisional Officer
Cum Sub Judicial Magistrate,
Pattukotai, Thanjavur District.
4. The Tahsildar,
Peravoorani Taluk,
Thanjavur District.
5. Chitra
6. Kavitha



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7. Rathika

8. Durgadevi

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the Impugned Order dated 08.11.2024 in Ni.Mu. 879/2022/A7, passed by the 3rd respondent and quash the same as illegal.

For Petitioner : Mr.P.Balamurugan

For Respondents : Mr.A.Kannan (R1 to R4)

Additional Government Pleader

ORDER

This writ petition is filed challenging the order dated 08.11.2024 in Ni.Mu. 879/2022/A7, passed by the 3rd respondent.

2. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.



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3. Heard the learned counsel on either side and perused the materials placed before this Court.

4. The properties in S.Nos.2/7, 2/8, 6/6, 16/5, 16/13, 18/2, 19/4, 20/1, 20/4, 20/5, 20/6 and 88/5, situated at Balacherikkadu, Peravoorani Taluk, Karambakadu, Thanjavur District, originally belonged to the petitioner's husband, namely, Arumugakonar and patta was also issued in his name. The property in S.Nos. 2/4 and 2/15 belonged to the petitioner's father-in-law, namely, Govindakonar. After demise of the petitioner's father-in-law, the petitioner's husband had acquired the title over the said property also.

5. While this being so, the petitioner's husband died on 24.09.2000 leaving behind the petitioner and his only son, namely Mathivanan, as his legal heirs. On the demise of the petitioner's husband, the petitioner's son Mathivanan was issued patta no.32 with respect to the aforesaid property vide order dated 19.01.2001. Subsequently, the petitioner's son died on 11.05.2019 and thereafter, based on the legal heir certificate issued to the



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petitioner and the other legal heirs of Mathivanan, patta was issued in patta no. 508 in favour of the petitioner and other legal heirs of said Mathivanan.

6. According to the petitioner, except the petitioner and her son, Mathivanan, her husband had no other legal heirs. While so, the respondents 5 to 7 claimed to be the legal heirs of the petitioner's husband, Govindakonar on the basis of a fraudulent legal heirship certificate dated 17.01.2001, obtained by them in their favour. Based on the fraudulent certificates, the respondents 5 to 7 applied to the third respondent for change of patta in their favour for the above mentioned properties. The petitioner and the eighth respondent appeared before the third respondent. However, the third respondent, without considering the petitioner's objection, passed the impugned order dated 08.11.2024 directing the fourth respondent to restore patta in favour of Arumugakonar and Govindakonar in respect of above mentioned properties. Aggrieved by the said order, the petitioner has filed this writ petition for the aforesaid relief.



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7. Admittedly, the order of the third respondent is revisable under Section 13 of the Tamil Nadu Patta Passbook Act, 1983, before the second respondent. The petitioner, without exhausting the alternative remedy before the second respondent, has approached this Court. The petitioner, in his affidavit has simply stated that he has no other alternative or efficacious remedy except approaching this Hon'ble Court by invoking the inherent power under Article 226 of the Constitution of India, despite the fact that even in the impugned order, the appeal remedy was clearly mentioned.

8. In my view, when there is an alternate and efficacious remedy available under Section 13 of the Tamil Nadu Patta Passbook Act, 1983, this writ petition filed without exhausting the same, cannot be maintained. 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.



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9. 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:

“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.””

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.”



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10. In view of the above discussions, the writ petition is dismissed.

In any event, the petitioner is given liberty to approach the 2nd respondent under Section 13 of the Tamil Nadu Patta Passbook Act, 1983, by way of revision. No costs. Consequently, connected miscellaneous petition is closed.

13.12.2024

Index : Yes / No

NCC : Yes / No

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N.MALA, J.

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Order made in
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Dated:
13.12.2024