

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2017

CORAM

THE HONOURABLE MR.JUSTICE K. RAVICHANDRABAABU

W.P.No.28939 of 2017
and
WMP.No.31164 of 2017

M/s.Hatsun Agro Product Limited
Rep. by its Assistant General Manager - Legal
Rajesh D.R.
Having Office at
Door No.1/20-A, Rajiv Gandhi Salai
Karapakkam, Chennai-600 097. ... Petitioner

Vs.

- 1.The Joint Commissioner
HR & CE Department
Coimbatore.
- 2.The Assistant Commissioner /
Executive Officer
Arulmigu Subramaniaswamy Thirukoil
Sivanmalai.
- 3.Marappa Gounder
Son of Muthusamy Gounder
- 4.Kumarasamy
Son of Chellappa Gounder
- 5.Thirupathal @ Thirumathal
Wife of Kumarasamy

- 6.Selvaraj
Son of Kumarasamy. ... Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, forbearing the respondents 1 and 2 and their officials and persons claiming under them from in any way interfering with the petitioner's peaceful possession and enjoyment of the property at Survey No.431/1 (Old Survey No.431/C), Udhoyur Village, Kangeyam Taluk, Tirupur District to an extent of 11.43 acres along with pathway in any manner whatsoever.

For Petitioner : Mr.T.V.Ramanujam
Senior Counsel for Mr.N.C.Ashok Kumar

For Respondents : Mr.M.Maharaja
Special Government Pleader for R1
Mr.N.Manoharan for R2

O R D E R

This writ petition is filed seeking for a mandamus forbearing the respondents 1 and 2 and their officials and persons claiming under them from in any way interfering with the petitioner's peaceful possession and enjoyment of the property at Survey No.431/1 (Old Survey No.431/C), Udhoyur Village, Kangeyam Taluk, Tirupur District, measuring to an extent of 11.43 acres along with pathway.

2. Heard the learned Senior Counsel appearing for the petitioner, the learned Special Government Pleader appearing for the first respondent and the learned counsel appearing for the second respondent.

3. The petitioner claims to be the owner of the subject matter property, based on the sale deed and patta. The petitioner also claims that they are in possession and enjoyment of the property in dispute and that the second respondent viz., the Assistant Commissioner / Executive Officer, Arulmigu Subramaniaswamy Thirukoil, Sivanmalai is trying to interfere with the possession and enjoyment of the above said property.

4. The learned Senior Counsel appearing for the petitioner submitted that even as on today, the petitioner is in possession and enjoyment of the property and therefore, the respondents cannot interfere with such possession except by due process of law.

5. On the other hand, the learned counsel appearing for the second respondent, based on instructions, submitted that the possession is with the second respondent Temple and the Temple is the title holder of the above said property.

6. Therefore, from the above contentions raised by the respective parties, it is evident that there is a dispute with regard to the title of the property apart from the possession of the same as well. Needless to say that all those issues required to be considered and decided only by conducting full fledged trial by a competent Civil Court. By exercising its discretionary power under Article 226 of the Constitution of India, this Court, cannot issue any mandamus, as sought for by

the petitioner. At the same time, it is open to the respective parties to approach the competent Civil Court and agitate the matter, by filing an appropriate suit. Granting such liberty, this writ petition is disposed of, without expressing any view on the merits of the contentions raised by both parties on question of title as well as the possession. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mk

To

1.The Joint Commissioner
HR & CE Department
Coimbatore.

2.The Assistant Commissioner /
Executive Officer
Arulmigu Subramaniaswamy Thirukoil
Sivanmalai.

+1cc to Mr.N.C.Ashok Kumar, Advocate, S.R.No.80352
+1cc to Mr.V.P.K.Goudham, Advocate, S.R.No.80259

W.P.No.28939 of 2017

AR IV
CA(14/11/2017)

सत्यमेव जयते

WEB COPY