

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.45607 of 2016

ORDER:

I have heard learned counsel for petitioner and the learned Standing Counsel for 2nd respondent.

Prima facie it appears to this court that the prayer of petitioner requires consideration of identity of property, enjoyment over years and encroachment beyond what is granted by the predecessor-in-interest of petitioner for utilization as burial ground.

This court is of the view that the petitioner is required to file a suit for comprehensive reliefs against respondents either on the grievance of illegal and unconstitutional deprivation of proprietary right or encroachment of petitioner's right without recourse to law. As disputed questions of fact particularly on right, title and identity are involved, this court is not exercising its discretion for entertaining writ prayer.

The writ petition is dismissed by granting liberty to the petitioner to work out remedies in accordance with law for all the grievances against respondents. The dismissal of writ petition shall not be construed as this court is expressing any view on the assertions of petitioner in this behalf. As a sequel, the miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

S. V. BHATT, J

Date: 02-01-2017
Prv