

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2018

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

WP.No.31713 of 2013

M.P.No.1 of 2013

1. M.Kannan
2. A.Maria Stellan
3. G.C. Parthasarathy
4. M.Menaka ...Petitioners

Vs.

1. The Assistant Commissioner of Police,
J-9, Thuraipakkam Police Station,
Thuraipakkam,
Chennai - 600 097.
2. Sugitha Chandrasekar ...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to forbear the 2nd respondent from interfering with the peaceful possession and enjoyment of the petitioner's house sites bearing plot Nos. B (Part), C, D and EF to an extent of 860 square feet, 2400 square feet, 1760 square feet and 1760 square feet, respectively out of 0.22.5 Hectares, comprised in Survey No.406/2A3 in Old Patta No.1480 New Patta No.2779 and 7608 situated at No.135 Okkiyam Thuraipakkam Village, Tambaram Taluk, now at Sholinganallur Taluk, Kancheepuram District.

For Petitioners: Mrs.V.Gandhimathi
for M/s.A.Ramu

For Respondents: Mr.V.Shanmuga Sundar, Spl.G.P. (for R1)
Mr.R.N.Amarnath (for R2)

ORDER

This writ petition has been filed for issuance of a Writ of Mandamus to forbear the respondents from interfering with the peaceful possession and enjoyment of the petitioner's house sites bearing plot Nos. B (Part), C, D and EF, comprised in Survey No.406/2A3 in Old Patta No.1480 New Patta No.2779 and 7608 situated at No.135, Okkiyam Thuraipakkam Village, Tambaram

Taluk, now at Sholinganallur Taluk, Kancheepuram District.

2. Heard the learned counsel for the petitioner, learned Special Government Pleader appearing for the 1st respondent and the learned counsel for the 2nd respondent.

3. According to the petitioners, they are the owners of the property in dispute and they are in possession and enjoyment of the said property. However, an attempt was made by the 2nd respondent to interfere with their possession. Hence, the present writ petition.

4. The learned Special Government Pleader submitted that the petitioners, as plaintiffs have instituted a suit in O.S.No.438 of 2013 before the Principal District Munsif, Alandur for permanent injunction. Since they are not able to get interim order, the present writ petition has been filed, suppressing the pendency of the suit. Hence, the Writ Petition may be dismissed.

5. The learned Special Government Pleader on instruction submitted that the complaint on the petitioners was enquired into by the 1st respondent and it was closed as Civil Dispute.

6. The learned counsel for the 2nd respondent, by reiterating the averments made in the counter affidavit, submitted that this writ petition itself is not maintainable, since it has been filed seeking against a private party.

7. It is settled law that the writ petition can be filed only against the State as per Article 12 of the Constitution of India. In the present writ petition, though the 1st respondent has been impleaded, the relief sought for is only against the 2nd respondent. In the typed set of papers filed by the 2nd respondent, a copy of the plaint has been annexed, which shows that the petitioner herein has already filed a suit in May 2013 before the Principal District Munsif, Alandur and filed this Writ Petition on 20.11.2013 for the same relief.

8. In the light of the above facts, the writ petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

-Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

To

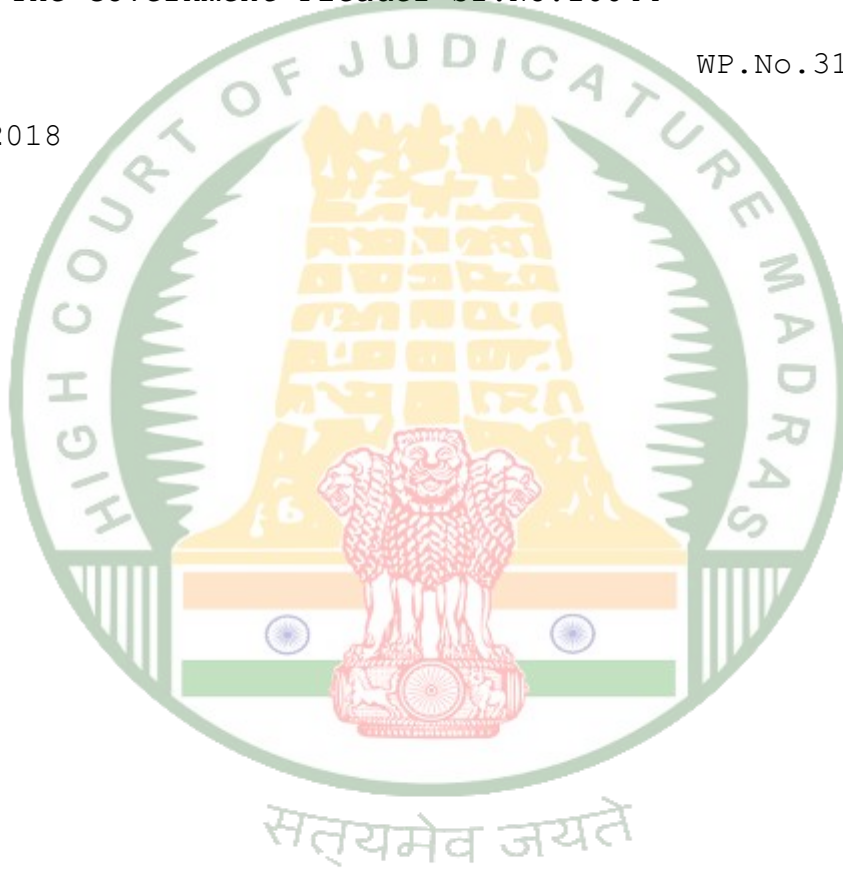
1 The Assistant Commissioner of Police,
J-9, Thuraipakkam Police Station,
Thuraipakkam,
Chennai - 600 097.

2 The Principal District Munsif,
Alandur.

- 1 cc to Mr.R.N.Amarnath, Advocate Sr.No.18710
- 1 cc to The Government Pleader Sr.No.18844

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CO (KK)
VS 05/04/2018



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