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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24-11-2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.25002 of 2021

And

WMP No.26328 of 2021

Mrs.R.Kavitha

..

Petitioner

vs.

1.The Assistant Director (Panchayat),
Rural Development Agency,
Panagal Building,
Saidapet,
Chennai - 600 018.

2.Pazhavathan Kattalai Village Panchayat,
Represented by its Secretary,
Pazhavathan Kattalai Village Panchayat,
Pazhavathan Kattalai,
Kumbakonam, Pin-612 401.

3.The President,
Pazhavathan Kattalai Village Panchayat,
Pazhavathan Kattalai,
Kumbakonam, Pin-612 401.

4.The Block Development Officer (Village Panchayat),
Block Development Office,
Karaikal Salai,
Kumbakonam, Pin-612 404.

..

Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, forbearing the first respondent herein from take over any portion of land in the petitioner's husband's land situate at Amma Thottam Village, Kumbakonam Taluk, Tanjore District comprised in Survey No.209/7, admeasuring 50 cents.



For Petitioner : Mr.G.Dhanasekaran

For Respondents 2 and 3 : Mr.N.R.R.Arun Natarajan,
Special Government Pleader.

For Respondents 1 and 4 : Mr.E.Vijay Anand,
Additional Government Pleader.

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O R D E R

The writ on hand has been instituted to forbear the first respondent from taking over any portion of the land in the petitioner's husband's land situate at Amma Thottam Village, Kumbakonam Taluk, Tanjore District comprised in Survey No.209/7, admeasuring 50 cents.

2. The petitioner states that the husband of the petitioner Mr.R.Rameshkumar was in possession and enjoyment of the Nanjai land situate at Amma Thottam Village, Kumbakonam Taluk, Tanjore District comprised in Survey No.209/7, admeasuring 50 cents.

3. While-so, the respondents 2 and 3 have been trying to take over the piece of land belongs to the husband of the petitioner. The petitioner sent representations to the first and the fourth respondents respectively dated 01.10.2021 and 01.10.2021 for which no action has been taken as on date. The petitioner further states that the third respondent has taken personal revenge against the husband of the petitioner and therefore, the petitioner is constrained to move the present writ petition.

4. The writ petition is absolutely misconceived. The petitioner has not stated that he possessed valid title or ownership in respect of the subject property. Even in case, the petitioner claims that she is the owner of the immovable subject property, then the remedy immediately available would be before the Competent Civil Court of Law for adjudication of title and certainly not before the High Court in the writ proceedings under Article 226 of the Constitution of India.

5. The practice of filing the writ proceedings in civil nature cases are in ascending mode and the High Court cannot encourage such practice of entertaining the writ petition for the purpose of adjudicating the title or ownership like of the petitioner. The writ petitions are filed seeking the relief in the nature of an injunction to restrain the persons from interfering with the property. In many such cases, the petitioners have not stated that they have established that they are the owners of the land and in order to circumvent the



issues, such writ petitions are filed even in cases of encroachments. Thus the High Court is expected to be cautious while entertaining such writ petitions, as the mere pendency of the same would take undue advantage of the persons to encroach upon the public lands or abusing the process by keeping the writ petitions pending.

6. Thus, the entertainability of the writ petition depends on the establishment of the right by the petitioner, who is approaching the Writ Court and once the right of the petitioner is not established, then the writ need not be entertained.

7. This being the principles to be followed, if at all the petitioner claims that she is the owner of the property, it is left open to her to approach the Competent Civil Court of Law for the purpose of adjudication of titles or ownership based on the documents and evidences made available. Contrarily, the writ proceedings need not be entertained as the relief sought for by the petitioner is in the nature of an injunction, which cannot be granted in the absence of an elaborate adjudication of the rights of the respective parties

8. Accordingly, the writ petition is devoid of merits and stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

Svn

To

1. The Assistant Director (Panchayat),
Rural Development Agency,
Panagal Building,
Saidapet,
Chennai - 600 018.



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4. The Block Development Officer (Village Panchayat),
Block Development Office,
Karaikal Salai,
Kumbakonam, Pin-612 404.

+3ccs to Mr.G.Dhanasekaran, Advocate SR.No.61014

WP 25002 of 2021

GPL (CO)
GMY (03/12/2021)