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C.R.P (NPD) No.1519 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2022

CORAM: JUSTICE N.SESHASAYEE

C.R.P (NPD) No.1519 of 2022
and C.M.P. No.7714 of 2022

1.F.Arun
2.F.Violet

... Petitioners

Vs.

1.The State of Tamil Nadu Government
Rep. by The District Collector
District Collector Office
Fort Main Road, Salem - 636 001

2.The Tahsildar
Yercaud Taluk
Salem District - 636 001

3.The Revenue Inspector
Yercaud Firka, Yercaud (Tk)
Salem (Dt) - 636 601

4.The Village Administrative Officer
Yercaud Town, Yercaud (Tk)
Salem (Dt) - 636 601

5.The Assistant Engineer
TANGEDCO
Ondikadai
Yercaud (Tk) and Post
Salem (Dt) - 636 601

... Respondents



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PRAYER: The Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 24.02.2022 made in TNSA060001122022 un-numbered suit in O.S. No. of 2022 on the file of Principal District Munsif Court, Salem and direct the Principal District Munsif Court, Salem to number the said original suit.

For Petitioner : Mr.K.Sathish Kumar

ORDER

The revision petitioner herein has laid the suit for a bare injunction against the State of Tamil Nadu and a set of officials on the revenue side and also the engineer of the TANGEDCO. The suit is not taken on record and indeed it was rejected by the trial court even before it was numbered.

2. A detailed speaking order made by the learned trial judge informs two important significant aspects (a) that the property in question is classified as graveyard poramboke and (b) that the revenue officials have already issued a show cause notice under Section 7 of the Land Encroachment Act,1905.



3. The learned counsel appearing for the revision petitioner would submit that the property is under the management of a certain Christian minority trust and hence it is necessary the suit is taken on record to test whether the property belongs to the Trust.

4. This court spots few points of fallacy in the argument of the learned counsel for the petitioner : (a) that the so called Christian minority trust has not even been made a party to the proceedings and only the State of Tamil Nadu and its officials are made as parties. This court is at a loss to understand, how the plaintiff is going to prove the title of the Christian minority trust in this proceedings; (b) when once notice under Section 7 of the Land Encroachment Act is issued, a suit is barred under the provisions of the Act; and (c) if the Trust is in management of the property concerned, then it is its problem and not the problem of the plaintiff to defend whatever title it has.

5. This court does not find any illegality, irregularity or impropriety or whatsoever reason in the order of the learned Principal District Munsif, Salem and hence it refrains from interfering with the said order.



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6. Accordingly, the civil revision petition is dismissed. However, there will be no order as to costs. Consequently, the connected civil miscellaneous petition is closed. The revision petitioner, however, at liberty to raise any contention that he intended to raise in his plaint, in his response to the show cause notice issued to him under Section 7 of the Land Encroachment Act, provided the show cause notice is still alive for making a response.

29.04.2022

Asr

To

The Principal District Munsif, Salem



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N.SESHASAYEE, J.,

Asr

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