



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.17405 of 2023
and
W.M.P.No.16555 of 2023

Mr.Rajendran

... Petitioner

Vs.

1. The District Collector,
Salem District,
Salem.

2. The Revenue Divisional Officer,
Attur Taluk,
Salem District.

3. The Tahsildar,
Attur Taluk,
Salem District.

4. P.Sakthi

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Mandamus, forbearing the respondents 3 and 4 from interfering with the petitioner's peaceful possession and enjoyment in respect of the agriculture land comprised in Old S.No.257, New S.No.258/2 with an extent of 90 cents situated at Paithur Village, Attur Taluk, Salem District.



For Petitioner : Mr. L.Rajendran
For Respondents : Mr. N.Naveenkumar,
Government Advocate
(for R1 to R3)

ORDER

The relief sought for in the present writ petition is to forbear the 3rd and 4th respondents from interfering with the peaceful possession and enjoyment of the petitioner in respect of the agriculture land comprised in Old S.No.257, New S.No.258/2 with an extent of 90 cents situated at Paithur Village, Attur Taluk, Salem District.

2. The grievances of the writ petitioner is that the 4th respondent is the husband of the Panchayat President and by abusing his position, the 4th respondent is attempting to interfere with the peaceful and enjoyment of the agricultural land in the subject property.

3. The learned counsel for the petitioner states that the 3rd respondent is also aiding the 4th respondent for taking possession of the property belonging to the petitioner.

4. Such allegations raised between the parties cannot be adjudicated



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in a writ proceedings. Title dispute in respect of the immovable properties are to be adjudicated by the Civil Court of law. The civil rights are to be established through documents and evidences and therefore, the writ Court cannot take roving enquiry to render findings regarding the title or ownership. When there is a dispute exists between the 4th respondent and the petitioner and the petitioner states that the 4th respondent is interfering with the possession, the petitioner has to approach the Civil Court of law for the purpose of establishing his right in the manner contemplated.

5. The principles have been reiterated by the Hon'ble Supreme Court of India in the case of ***St. Mary's Education Society -vs- Rajendra Prasad Bhargava***, reported in [(2023) 4 SCC 498], wherein it has been held as follows:-

“ 41. This Court considered various of its other decisions to examine the question of public law remedy under Article 226 of the Constitution. This Court observed in Binny case [Binny Ltd. v. V. Sadasivan, (2005) 6 SCC 657 : 2005 SCC (L&S) 881] as under : (SCC p. 673, para 29)



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“29. Thus, it can be seen that a writ of mandamus or the remedy under Article 226 is pre-eminently a public law remedy and is not generally available as a remedy against private wrongs. It is used for enforcement of various rights of the public or to compel the public/statutory authorities to discharge their duties and to act within their bounds. It may be used to do justice when there is wrongful exercise of power or a refusal to perform duties. This writ is admirably equipped to serve as a judicial control over administrative actions. This writ could also be issued against any private body or person, specially in view of the words used in Article 226 of the Constitution. However, the scope of mandamus is limited to enforcement of public duty. The scope of mandamus is determined by the nature of the duty to be enforced, rather than the identity of



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the authority against whom it is sought. If the private body is discharging a public function and the denial of any right is in connection with the public duty imposed on such body, the public law remedy can be enforced. The duty cast on the public body may be either statutory or otherwise and the source of such power is immaterial, but, nevertheless, there must be the public law element in such action. Sometimes, it is difficult to distinguish between public law and private law remedies.

43. In the background of the above legal position, it can be safely concluded that power of judicial review under Article 226 of the Constitution of India can be exercised by the High Court even if the body against which an action is sought is not State or an authority or an instrumentality of the State but there must be a public element in the action complained of.”



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In view of the principles laid down by the Constitutional Courts across the Country, the relief as such sought in the present writ petition is not entertainable and the petitioner is at liberty to approach the competent Civil Court of law.

In fine, the writ petition in W.P.No.17405 of 2023 stands dismissed.

Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index : Yes

Speaking order

Neutral Citation : Yes

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S.M.SUBRAMANIAM, J.

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