



WEB COPY



W.P.No.20937 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2023

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.20937 of 2022

K.Murali

... Petitioner

VS.

1.The District Collector,
Ranipet District,
Ranipet.

2.The Tahsildar,
Nemili Taluk,
Nemili, Ranipet District.

3.The Executive Officer,
Nemili Town Panchayat,
Nemili, Nemili Taluk,
Ranipet District.

4.The Inspector of Police,
Nemili Police Station,
Nemili, Ranipet District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents 1 to 3 from trespassing into the petitioner's property measuring an extent of 1513 sq.ft in



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Plot No.8 and also 9438 sq.ft, both comprised in S.F.No.30/2 of Nemili Village, Nemili Taluk, Ranipet District, except by following the due process of law.(Prayer amended vide order dated 26.04.2023 made in WMP.No.12814/2023 in WP.No.20937/2022 by NAVJ)

For Petitioners : Mr.P.Krishnan

For Respondents : Mr.L.S.M.Hasan Fizal
for R1 to R3

ORDER

The writ petitioner seeks issuance of a Writ of Mandamus forbearing the respondents 1 to 3 from trespassing into the petitioner's property having an extent of 9438 sq.ft except by due process of law in Plot No.8 having an extent of 1513 sq.ft in S.No.30/2, situated at Nemili Village and Taluk, Ranipet District.

2. It is the case of the petitioner that the respondents 1 to 3 attempting to trespass into the above mentioned property belongs to him. The contesting respondents filed a counter stating that the petitioner's land in S.No.30/2, lies in an approved layout approved way back in the year 1989 and as per the approved layout the 3rd respondent is taking steps to fence the



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OSR land earmarked for children park. The 3rd respondent has not made any attempt to encroach upon the properties of the petitioner.

3. The learned counsel appearing for the petitioner submits that the layout relied on by the respondents is not an approved layout and OSR lands are not reserved in the above said layout.

4. The learned counsel appearing for the respondents 1 and 2 by taking this Court to sale deed executed by the petitioner's brother and his mother in favour of one Kannan and Rukmani Ammal dated 07.07.1993 submitted that there is clear reference about approval number of the layout in the property mentioned in the sale deed. The question, whether the land in respect of which the petitioner seeks relief is OSR land in an approved layout or the patta land of the petitioner is a disputed question of fact, which cannot be gone into in writ proceedings. Further the prayer sought for by the petitioner is in nature of permanent injunction.



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5. In such circumstances, this Court is not inclined to exercise its jurisdiction under Article 226 of Constitution of India. However, the petitioner is granted liberty to approach the Competent Civil Court. At this juncture, the learned counsel for the petitioner submitted that this Court has already granted protection by way of interim order and the same may be continued to enable the petitioner to move the Civil Court. Hence, the petitioner is given two weeks time to move the appropriate Civil Court. Till then, the *status-quo* shall be maintained.

6. With these observations, this writ petition stands disposed of. No costs.

20.09.2023

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
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S.SOUNTHAR, J.

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