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W.P. No. 27193 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 27193 of 2023

and

W.M.P. No. 26624 of 2023

Mehaboob Basha @ Mehaboob John

... Petitioner

-VS-

1. The District Collector
District Collector Office
Krishnagiri.
 2. The Commissioner
Hosur Corporation
Hosur.
 3. The Sub Collector
Sub Collector Office
Hosur.
 4. The Tahsildar
Taluk Office, Hosur.
- Respondents

...

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, forbearing the Second Respondent from interfering with the Petitioner's peaceful possession and enjoyment of the land measuring an extent of 70 cents in Survey No. 178/1 of Mathigiri Revenue Village, Hosur Taluk, Krishnagiri District under the guise of laying a road except by following the due process of law.



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For Petitioner : Mr. R.Bharath Kumar

For Respondents : Mr. U.Baranidharan, AGP

ORDER

Heard Mr. R.Bharath Kumar, Learned Counsel for the Petitioner and Mr. Mr. U.Baranidharan, Learned Additional Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The grievance ventilated by the Petitioner is that he had made a representation dated 03.08.2023 that the Respondents without any authority of law are high-handedly laying road in his private land in Survey No. 178/1 and New Survey No. 178/1A1 in Mathigiri Revenue Village, Hosur Taluk, Krishnagiri District, but as it did not evoke any response, it has necessitated the filing of this Writ Petition.

3. This Court during the earlier hearing on 21.11.2023 had directed the First Respondent to depute the jurisdictional Tahsildar along with Surveyor to inspect the property and measure the same with revenue records to ascertain as to whether the contentions of the Petitioner is factually correct and submit a report.



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In furtherance to the said order, a status report dated 20.12.2023 has been filed

by the Fourth Respondent, which reads as follows:-

“2. It is submitted that the land S.No.178/1 of Mathagiri Village in Hosur Taluk, Krishnagiri has subdivided into 178/1A1A1A1A, 178/1A1B, 178/1A2, 178/1A3 in the Revenue /Government Records. The land 178/1A1A1A1A measuring 0.85.76 hectare of Mathigiri Village stands registered in the name of 1. Balaji, 2. Vidhya, 3. Sheela Bai in the Revenue /Government records of Mathigiri Village of Hosur Taluk. In the Pre-UDR survey A-Register the land S.No.178/1 measuring 2.76 acre has been registered as 'the Manager for the time being for mosque to render Khaji Service.’”

3. It is submitted that there are about 10 house site plots in S.No.178/ 1A1A1A1A of Mathigiri Village. The remaining extent of lands is lying waste. The petitioner claims 0.70 cent of land in the S.No.178/1A1A1A1A of Mathigiri Village.

4. It is submitted that there are no records and documents



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with the Petitioner to establish his claim. The petitioner has not all sent any representation to the respondents with regard to his grievances and directly approached this Hon'ble Court without valid grounds and reasons. Hence the petition is not maintainable as per law.

5. *It is submitted that the petitioner has sent an application to the 4th respondents with a prayer to measure and show boundaries of the land S.No.178/1 of Mathigiri Village. The Corporation of Hosur has laid cement concrete road on northern side of the land for the movement of residents of the area. The said road is 15 feet width and length of the road is 80 feet.*

6. *It is submitted that the surveyor of the Mathigiri Firka went to measure the land on 07.12.2023. There is an objection from the residents for surveying the said land. Hence, the surveyor has not measured the said land.*



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7. *It is submitted that contention of the petitioner is that the land of formation of the path /cement concrete road belongs to him. But the petitioner has no records and documents with him to establish his claim. Further, the vendee of the land has also no document to establish him claim.*

8. *It is submitted that the subject matter land does not belong to the petitioner or the vendee of the petitioner. How the vendee of the land has sold the said land to the petitioner is not able to be ascertained.*

9. *It is submitted that there is no patta for the subject matter land in the name of the petitioner. The said land is not under the possession and enjoyment of the petitioner. The subject matter land was sold to the petitioner by one Thiru. Subramani. There is no link document with the Thiru. Subramani.*

10. *It is submitted that the initial survey of the Mathigiri*



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village held in the year 1909. In the A-Register of the initial survey the land has been recorded as “the Manager for the time being for Mosque to render Khaji service”. Hence the petitioner cannot claim right over the said land.

11. It is submitted that the subject matter land does not belong to the petitioner. It is liberty to the petitioner to send representation to the competent authorities and get patta for the subject matter land first and then approach the respondents for the relief.

12. It is submitted that the Superintendent Waqf Board Salem in his letter No. 99 dated 03.07.2023 as stated that the following lands are Waqf Board lands.

S.No.	Village	Survey Number	Extent in Acre
1.	Mathigiri	166/1	7.52
2.	Mathigiri	187/4	0.18
3.	Mathigiri	178/1	2.76
4.	Mathigiri	183/1	5.72
5.	Mathigiri	189/1	6.72

The subject matter land 178/1 also in the list of the Waqf Board



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lands. The Superintendent has requested not to transfer or register the said lands in the name of third parties.

Having due regard to the aforesaid explanation, which deserves acceptance, it is evident that the nature of relief claimed by the Petitioner falls within the realm of disputed questions of fact, which cannot be effectively determined by this Court in proceedings under Article 226 of the Constitution following summary procedure. It must be recapitulated here that the Hon'ble Supreme Court of India in the decision in ***Roshina T. -vs- Abdul Azeez K.T.*** [(2019) 2 SCC 329] has cautioned that such claims relating to property rights would have to be answered one way or the other only in a properly framed suit impleading necessary parties before the civil court. In such circumstances, the Petitioner has not been impeded from canvassing what is sought to be agitated in this Writ Petition in the aforesaid remedy and there is no acceptable explanation from the Petitioner for not having availed it. In that view of the matter, this Court is not inclined to entertain this Writ Petition or delve into the merits of the controversy involved.

In the result, the Writ Petition is disposed with the aforesaid observations. Consequently, the connected Miscellaneous Petition is closed. No costs.



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20.12.2023

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 05.06.2024.

Maya

To

1. The District Collector
District Collector Office
Krishnagiri.
2. The Commissioner
Hosur Corporation
Hosur.
3. The Sub Collector
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4. The Tahsildar
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P.D. AUDIKESAVALU, J.

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