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W.P.No.10811 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2023

CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.10811 of 2017

K.Jayasree

.. Petitioner

vs

1. The District Collector
Coimbatore District, Coimbatore.
2. The Thasildhar
Madhukarai Taluk Office, Coimbatore.
3. The Commissioner of Police
Hosur Road, Central
Coimbatore – 641 018.

4. Narayanan

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of Mandamus, directing the respondents 1 to 3 to consider the petitioner's representation dated 21.10.2016.

For the Petitioner : Mr.M.Hariharan

For the Respondents : Mr.S.Ravichandran
Additional Government Pleader
for respondents 1 to 3



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Ms.T.Maha
for Mr.N.Ponraj
for respondent 4

ORDER

The relief sought for in the present writ petition is to direct the respondents 1 to 3 to consider the representation submitted by the writ petitioner on 21.10.2016.

2. The learned counsel for the petitioner states that the patta land has been encroached upon by the fourth respondent and a temple was constructed in an illegal manner. The petitioner, in order to remove the temple and to vacate the fourth respondent, submitted a representation to the second respondent / Tahsildar. The said representation was not considered and thus, the petitioner is constrained to move the present writ petition.

3. The learned Additional Government Pleader appearing on behalf of the respondents 1 to 3 brought to the notice of this Court that the writ petitioner as well as the fourth respondent are parties in two civil suits. One



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suit in O.S.No.23 of 2018 is pending on the file of the I Additional District Munsif Court, Coimbatore and yet another suit in O.S.No.38 of 2018 pending before the Principal Sub Court, Coimbatore.

4. The petitioner is claiming title and ownership of the immovable property. Thus, they have to approach the Civil Court rightly and the petitioner has to establish his title or ownership with reference to the subject property through documents and evidences.

5. The learned counsel for the fourth respondent also reiterated that the writ petition is not maintainable on the ground that it is a civil dispute. Therefore, the petitioner has to approach the Civil Court in this regard. The learned counsel for the fourth respondent relied on the judgment of the Supreme Court in SLP (c) No.30465 of 2017 in the case of ***Roshina T vs Abdul Azeez K.T. & Ors.***, more specifically paragraph 15, which is extracted hereunder:



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“15. It has been consistently held by this Court that a regular suit is the appropriate remedy for settlement of the disputes relating to property rights between the private persons. The remedy under [Article 226](#) of the Constitution shall not be available except where violation of some statutory duty on the part of statutory authority is alleged. In such cases, the Court has jurisdiction to issue appropriate directions to the authority concerned. It is held that the High Court cannot allow its constitutional jurisdiction to be used for deciding disputes, for which remedies under the general law, civil or criminal are available. This Court has held that it is not intended to replace the ordinary remedies by way of a civil suit or application available to an aggrieved person. The jurisdiction under [Article 226](#) of the Constitution being special and extraordinary, it should not be exercised casually or lightly on mere asking by the litigant. (See [Mohan Pande vs. Usha Rani](#), 1992 (4) SCC 61 and [Dwarka Prasad Agrawal vs BD Agrawal](#), (2003) 6 SCC 230).”



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6. In view of the facts and circumstances, the petitioner is at liberty to pursue his remedy before the Civil Court in respect of the suits already instituted.

7. In view of the above, the writ petition stands dismissed. There will be no order as to costs.

Index : Yes/No

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Neutral Order: Yes/No

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S.M.SUBRAMANIAM,J.

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