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W.A.Nos.2463 & 2464 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2023

CORAM :

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

AND

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.A.Nos.2463 & 2464 of 2018

M.C.Vembuli	..	Appellant in both the W.As
v.		
Duraiarasu S/o Chinnappan	..	1 st Respondent in WA.2463/18
M.C.Panayan	..	1 st Respondent in WA.2464/18
The Tahsildar Sriperumpudur Taluk Office Sriperumbudur	..	2 nd Respondent in both W.As
The Taluk Surveyor Sriperumbudur Taluk Office Sriperumbudur	..	3 rd Respondent in both W.As
The Inspector of Police Mangadu Police Station Mangadu Chennai 600 122	..	4 th Respondent in both W.As.



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Writ Appeals filed under Clause 15 of the Letters Patent, against the order dated 30.06.2011 made in W.P.Nos.15538 & 15539 of 2011.

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For Appellant :: Mr.M.Vijayakumar

For Respondents :: Mr.M.Saravanakumar for R1
in both the W.As
Mrs.R.L.Karthika
Government Advocate for
R2 to R4

COMMON JUDGMENT

(Judgment of the Court was made by D.KRISHNAKUMAR,J.)

The respective first respondent in both these writ appeals filed the Writ Petition Nos.15538 & 15539 of 2011 with a common prayer to direct the respondents 1 and 2 therein to survey and sub divide the land measuring 0.84 acres comprised in Survey No.295, Mangadu Village into 3 parts and issue separate patta in their favour based on their representations dated 15.04.2011 by providing sufficient police protection. By order dated 30.06.2011, the writ petitions were disposed of, at the admission stage, with the following observation:-

“2. Considering the limited scope of the prayer, without going into the merits of the matter, these writ petitions are disposed of with a direction



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against the first respondent to consider the representations of the petitioners dated 15.04.2011 subject to the condition that the petitioners shall pay necessary fees required for the measurement as well as allotment of separate pattas and if such application is filed complying with the fees prescribed, the first respondent shall pass orders, of course after inspection and after giving opportunity to the petitioners and the fourth respondent, within twelve weeks from the date of receipt of a copy of this order. No costs.”

Subsequently, the appellant herein filed M.P.Nos.1 and 1 of 2012 in W.P.Nos.15538 and 15539 of 2011 seeking to modify the common order dated 30.06.2011 and by order dated 11.04.2014, the said applications were dismissed with liberty to approach the appropriate forum for further relief, if so advised. The appellant has filed these intra-Court appeals in the year 2018, aggrieved by the order passed by the writ Court dated 30.06.2011.

2. Learned counsel appearing for the appellant placed two-fold submissions. Firstly, no opportunity has been granted to the appellant to



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place all the facts before the writ Court, as the matters have been disposed of at the admission stage itself. Secondly, pursuant to the direction, the Surveyor has sub divided the property and possession has been forcibly taken over from the appellant. Therefore, according to the appellant, the order of the writ Court is liable to be set aside and also seeks appropriate orders to be passed with regard to the possession.

3. The learned counsel appearing for the respective first respondent/writ petitioners, objecting to the said plea, submitted that, as observed by the learned single Judge vide order dated 11.04.2014 made in M.P.Nos.1 and 1 of 2012 in W.P.Nos.15538 and 15539 of 2011, the appellant has to work out his remedy before the appropriate forum, if so advised.

4. Having heard the learned counsels appearing for the parties, we are of the view that the disputed question of fact as to which party has been in possession of the property all these years, cannot be gone into or decided in the writ petitions under Article 226 of the Constitution of India. As observed



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by the learned single Judge, the appellant has to work out his remedy before the appropriate authority or the Court concerned, if so advised. Both the parties have not placed any material before us to show that they have approached the concerned authority or the civil forum in this regard. In such circumstances, we are not inclined to interfere with the order of the learned single Judge. If at all the appellant is aggrieved, he can seek remedy before the appropriate authority or the Court concerned. If the appellant approaches any other forum, the authority or the Court concerned shall not be influenced by any of the observations made in this order. With this observation, the writ appeals stand dismissed. Consequently, C.M.P.Nos.19872 & 19876 of 2018 are also dismissed. No costs.

(D.K.K.,J.) (P.B.B,J.)
13.07.2023

Index : yes/no
Neutral citation : yes/no

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To
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1. The Tahsildar
Sriperumpudur Taluk Office
Sriperumbudur
2. The Taluk Surveyor
Sriperumbudur Taluk Office
Sriperumbudur
3. The Inspector of Police
Mangadu Police Station
Mangadu
Chennai 600 122



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