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W.A.No.2065 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2023

CORAM

THE HON'BLE Mr. JUSTICE R.SURESH KUMAR
AND
THE HON'BLE Mr. JUSTICE C.KUMARAPPAN

W.A.No.2065 of 2019

GR.ENGG. Works,
By its Proprietor, T.Gajaraj,
No.16, Gandhi Street, Kilkattalai,
Chennai – 117.

... Appellant

Vs.

1.The Member and Secretary,
C.M.D.A., Chennai – 600 008.

2.The Commissioner,
The Pallavaram Municipality,
Pallavaram, Chennai – 600 044.

G.Vijayalakshmi (Died) (Not Pressed)
3.Chandrasekaran
4.B.Madhu
5.P.Babu
6.P.Sathish Kumar (Died) (Not Pressed)

7.Vasanthem Residentials
Rep. By T.Arul
A Group of Vasanth Builders,
18, Govindan St.,
Ayyavu Colony, Aminjikarai,
Chennai – 29.

8.The Sub Registrar,



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SRO, Pallavaram,
Chennai – 44.

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9.The Tahsildar,
Alandur, Chennai – 61.

10.The Assistant Commissioner,
ULT, Tambaram, 153, Karunegar Street,
Addambakam, Chennai – 88.

... Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent Act, praying to set aside the impugned dismissal order as writ is not maintainable passed in W.P.No.37949 of 2015 on 05.03.2018 on the file of this Court.

For Appellant	: Mr.Praveenath Amicus Curiae
For R1 to R4	: No appearance
For R5 & R7	: No appearance
For R6	: Died
For R8 to R10	: Mr.K.V.Sajeevkumar Additional Government Pleader

JUDGMENT

(Judgment of the Court was delivered by R.SURESH KUMAR, J.)

This appeal has been directed against the order passed by the Writ Court dated 05.03.2018 made in W.P.No.37949 of 2015.



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2. Before the Writ Court, the prayer sought for by the writ petitioner who is the appellant herein was to seek a writ of mandamus to direct the 8th respondent called 'Vasantham Residential represented by one T.Arul a group of Vasanth Builders No.18, Govindan Street, Ayyavo Colony, Aminjikarai, Chennai - 29' to vacate unauthorised possession of his land S.No.286/2 - 57 cents immediately.

3. It seems that, in respect of the said land the petitioner/appellant claimed possession as he claims title over his son who sold the property in favour of the 8th respondent.

4. Therefore virtually it is a property dispute or ownership dispute among the parties viz., the petitioner/appellant, the 8th respondent and the son of the petitioner/appellant.

5. If that is the litigious area for which the lis has been filed, the petitioner/appellant ought to have approached the competent Civil Court.

6. This in fact has been stated and advised by the Writ Court, despite that it seems the appellant/writ petitioner was adamant in



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insisting upon the Writ Court to entertain the writ petition to issue a mandamus against the 8th respondent who is a private party.

7. The learned Judge therefore has dismissed the said writ petition as not maintainable against the private party, against which, the present appeal has been directed.

8. We have heard Mr.S.Praveenath, learned counsel who has been appointed as *Amicus Curiae* in this case and Mr.K.V.Sajeev Kumar, learned Special Government Pleader appearing for the official respondents.

9. It is a well settled legal proposition that, the prerogative writs provided under Article 226 of the Constitution can be issued by the law Courts only against the State within the meaning of Article 12 of the Constitution or any other person who is doing a public duty.

10. The 8th respondent neither be construed as State within the meaning of Article 12 of the Constitution nor be construed as a person who discharged public duty.



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WEB COPY 11. When that being so, no writ will lie against the 8th respondent therefore absolutely no infirmity in coming to such conclusion arrived at by the learned Judge in the order impugned, as against which the appeal cannot be successfully preferred by the petitioner/appellant. In view of the same, the Writ Appeal fails, hence it is dismissed. However, there shall be no order as to costs.

[R.S.K., J.] [C.K., J.]
06.10.2023

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
Sgl
To

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- 3.The Sub Registrar,
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