



WEB COPY



W.P. No. 679 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2024

CORAM

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

W.P. No. 679 of 2021

and

W.M.P. No. 737 of 2021

Dr. R.Tamilselvi

... Petitioner

-VS-

The Commissioner
Coimbatore Corporation
Town Hall, Coimbatore.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, forbearing the Respondent or employees or men or agents from in any way interfering with Petitioner's peaceful possession and enjoyment of the Petitioners private land of 6600 sq.ft. (i.e. 15 cents and 66 sq.ft) ad-measuring 120 feet on the North and South and 55 feet on the east and west, bounded on the South by Plot No. 154 and 156, North by Plot No. 156 and 164, West by 30 feet road and East by 30 feet road, situated in the G.R.G. Nagar lay out approved in No. L.P./R. (C.N.) No. 261/82 and located in Survey No. 435/1 in Kalappatti village, Coimbatore North Taluk, Coimbatore District, by considering the Petitioner's representation dated 01.04.2019.



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For Petitioner : Mr. K.Kulandaivelu

For Respondent : Mr. K.Magesh

ORDER

Heard Mr. K.Kulandaivelu, Learned Counsel for the Petitioner and Mr. K.Magesh, Learned Counsel for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. It is the case of the Petitioner that she is the owner of the plot of an extent of 6600 sq.ft. (i.e. 15 cents and 66 sq.ft) admeasuring 120 feet on the North and South and 55 feet on the east and west, bounded on the South by Plot No. 154 and 156, North by Plot No. 156 and 164, West by 30 feet road and East by 30 feet road, situated in the G.R.G. Nagar lay out approved in No. L.P./R. (C.N.) No. 261/82 and located in Survey No. 435/1 in Kalappatti village, Coimbatore North Taluk, Coimbatore District (hereinafter referred to as 'the property' for short), and that the Respondent had erected a display board in that property stating that it has been reserved for public purpose as per layout approval in L.P./R. (C.N.) No. 261/82 and belongs to the Respondents and forms the dispute raised by M/s. G.R.G. Nagar Site Owners Association in the



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Writ Petition in W.P. No. 18434 of 2008 before this Court. The Petitioner had made a representation dated 01.04.2019 to the Respondent to remove that display board, but as it did not evoke any response, it has necessitated the filing of this Writ Petition.

3. According to the Learned Counsel for the Petitioner, this Court by order dated 14.12.2022 has also dismissed the said Writ Petition in W.P. No. 18434 of 2008 for non-prosecution, meaning thereby the dispute raised by the said M/s. G.R.G. Nagar Site Owners Association in respect of that property has ceased to exist as on date.

4. The Respondent has filed Counter-Affidavit dated 28.02.2024 asserting that the property has been earmarked for open space in the approved lay-out within 10% of reserved sites for public purpose, which the promoter had no right to retain, and that it is not a residential plot as per the approved plan, which the Petitioner could purchase from the promoter.

5. Having regard to the rival contentions, 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



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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 delve into the merits of the controversy by entertaining this Writ Petition.

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

04.03.2024

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 05.06.2024.

Maya



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To
The Commissioner
Coimbatore Corporation
Town Hall, Coimbatore.



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P.D. AUDIKESAVALU, J.

Maya

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