



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. No.5521 of 2024

Prasanth

... Petitioner

Vs.

1. The District Collector
Dharmapuri
Dharmapuri District
2. The Revenue Divisional Officer
Dharmapuri
Dharmapuri District
3. The Tahsildar
Nallampalli Taluk Office
Dharmapuri
Dharmapuri District
4. The Special Tahsildar
Adi Dravidar Welfare Department
Dharmapuri
Dharmapuri District

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents not to interfere into the peaceful possession and enjoyment of land in Survey No.188/1C1B, Maniyathahalli Village, Nallampalli Taluk, Dharmapuri District in any manner except by due process of law pursuant to the representation dated 26.02.2024.

For Petitioner : Mr.T.Muruganantham



WEB COPY

W.P.No.5521 of 2024



For Respondents : Mr.A.Senvendran
Special Government Pleader

ORDER

This Writ Petition is filed seeking to issue a Writ of Mandamus directing the respondents not to interfere into the peaceful possession and enjoyment of land in Survey No.188/1C1B, Maniyathahalli Village, Nallampalli Taluk, Dharmapuri District in any manner except by due process of law, pursuant to the representation dated 26.02.2024.

2. The learned counsel for the petitioner submitted that the petitioner purchased the above said agricultural land from one Chandra by way of deed of Sale bearing Regn. No.5302 of 2023 on 05.10.2023, registered in the office of the SRO, Dharmapuri West. Ever since, the petitioner has been in continuous possession and enjoyment of the same. While so, it was contended, one Kanmani had filed a public interest litigation in W.P.No.14739/2022 stating that the Survey No.187/2B of the said village, is allotted for Burial Ground and to reach out the Burial Ground, a pathway of an extent of 164.6 meters length and 6 meters breadth in Survey No.188/1C2, 188/2B is allotted and since the pathway is encroached, the villagers taking out the funeral processions through survey No.192/1 and 204/7. The fact is that, the said Kanmani herself had purchased the said lands and in order to



prevent the public from using her land as pathway, she filed the said petition and there is absolutely no public interest litigation involved in it. But this Court vide order dated 15.12.2022, directed the 3rd respondent to remove the encroachment. Based on the order, the 3rd respondent issued a show cause notice on 27.06.2022, by invoking Section 7 of the Land Encroachment Act. Against which, the petitioner's father and mother filed a suit in O.S.No.133/2022 before the Muncif, Dharmapuri and the same is pending. Further, the petitioner's father filed SLP (Civil) Dairy No.3749/2023 against the order passed in W.P.No.14739/2022 and the Hon'ble Supreme Court, by order dated 25.08.2023, held that the petitioner would be always at liberty to take resources to such remedies as are available to them in law. Since the petitioner's parents have already filed a suit and the same is pending, the petitioner with no other alternative remedy, filed the present Writ Petition before this Court

3. Mr.A.Selvendran, learned Special Government Pleader takes notice for the respondents.

4. Heard and perused the materials available on record.



5. It is stated that the father and mother of the writ petitioner, have already filed a suit and the same is pending. Now the petitioner has filed the present Writ Petition. The petitioner is no way connected either with the PIL or with the SLP and also with the Civil Suit and now he has filed the present Writ Petition. Unless the petitioner establishes his right, title and possession of the property, the Writ Court cannot grant any relief. Therefore, the Writ Petition is not maintainable. The petitioner is at liberty to work out his remedy in the manner known to law before the competent forum.

6. Accordingly, the Writ Petition is dismissed. No costs.

04.03.2024

ksa-2

Index : Yes / No

Neutral Citation Case : Yes/No



To

1. The District Collector
Dharmapuri
Dharmapuri District
2. The Revenue Divisional Officer
Dharmapuri
Dharmapuri District
3. The Tahsildar
Nallampalli Taluk Office
Dharmapuri
Dharmapuri District
4. The Special Tahsildar
Adi Dravidar Welfare Department
Dharmapuri
Dharmapuri District



WEB COPY

W.P.No.5521 of 2024



P.VELMURUGAN. J.

Ksa-2

W.P.5521 of 2024

04.03.2024