



W.P. No. 34455 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2024

CORAM

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

W.P. No. 34455 of 2023

T. Kannan

... Petitioner

-VS-

1. The District Collector,
Erode District,
Erode.
2. The Director of Town and Country Planning,
E & C Market Road,
Koyambedu,
Chennai 600 107.
3. The Deputy Director,
Erode District Town & Country Planning,
Sampath Nagar,
Near Ulavar Santhai,
Erode 638 011.
4. S. Eswaramurthy,
President,
M/s. Gangai Educational and Welfare Trust,
13/68, Manakadu
Ingur
Perundurai Taluk
Erode District 638 058.
5. V. Madheswari
6. R. Loganathan

... Respondents



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Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, forbearing the First to Third Respondents herein granting any approval/permission for the lands measuring 51.87 cents in R.S.Nos.827/4B, 5B, 6A and 828/1C2 situate at Ingur Village, Perundurai Taluk, Erode District as public road pending disposal of the suit in O.S.No.69 of 2023 on the file of the District Munsif Court, Perundurai.

For Petitioner : Mr. K. Govi Ganesan

For Respondents : Mr. B.Vijay, (for R1 to R3)
Additional Government Pleader

O R D E R

Heard K. Govi Ganesan, Learned Counsel for the Petitioner and Mr. B.Vijay, Learned Additional Government Pleader, appearing for the First to Third Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

2. It is the case of the Petitioner that the lands measuring 0.41.5 hectares, 0.35.0 hectares, 0.34.5 hectares, 0.37.5 hectares and 22³/₄ cents and 28¹/₄ cents in R.S. Nos.827/5, 827/6, 827/7, 828/ and 828/1C respectively situate at Ingur Village, Perundurai Taluk, Erode District belongs to Gangai Educational and



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Welfare Trust (hereinafter referred to as 'the Trust' for short), in which he is a Trustee and the Fourth Respondent is its President, and that the Fourth Respondent has clandestinely executed a gift-deed dated 30.12.2022 registered as Document No. 10231/2022 in the office of the Sub-Registrar, Perundurai in favour of Ingur Panchayat transferring an extent of 51.87 cents of the aforesaid land belonging to the Trust with malafide intention to provide access to the land of the Fifth Respondent situate at S.F. No. 828/2, 1C3 in Ingur Village (hereinafter referred to as 'the property' for short) and that he has filed the suit in O.S. No. 69 of 2023 in the District Munsif Court, Perundurai against the Village Panchayat to declare that the said gift-deed is null and void and for consequential injunction, which is pending. In the meanwhile, as the Fifth Respondent has sought for the planning permission for construction in her aforesaid property, the Petitioner has this Writ Petition seeking to restrain the First to Third Respondents from granting approval/permission for that property as public road till the disposal of the aforesaid suit.

3. 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 Article 226 of the Constitution following summary procedure. It must be recapitulated here that the Hon'ble Supreme



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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 by filing an interlocutory application in the pending suit and there is no acceptable explanation from the Petitioner for not having resorted to that procedure. 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. No costs.

24.01.2024

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 05.06.2024.

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To

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Erode.
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P.D. AUDIKESAVALU, J.

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