

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI  
and  
THE HON'BLE MR. JUSTICE K.K. SASIDHARAN

W.P. No.14964 of 2015 and M.P. No.1 of 2015

I. Mohanraj

Petitioner

vs.

- 1 The Chairman,  
Perumanallur Panchayat,  
Perumanallur  
Tiruppur District- 641 666.
- 2 The District Collector  
Tiruppur.
- 3 The District Revenue Officer  
Tiruppur.
- 4 The Revenue Divisional Officer,  
Tiruppur, Tiruppur District.
- 5 The Tahsildar Avinashi Taluk Office,  
Avinashi, Tiruppur District.
- 6 The Bishop,  
Church of south India, Race Course Road,  
Coimbatore.18.

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus forbearing the first respondent from allowing the 6th respondent from further constructing church including the petitioner's property and to direct the first respondent to initiate action against the 6th respondent in accordance with Rule 34 of the Tamil Nadu Panchayats Building Rules, 1997 and to protect the constitutional obligations and rights and enjoyment of the petitioner's property of land and building in Village Natham old Survey No.274B/1A 1A, 1A(New survey No.392/1) and

bearing Door No.3/452 in Perumanallur Village Kaspā, Tiruppur Taluk , Avinashi Sub Registration district, Tiruppur District.

For petitioner Mr. C. Ravichandran  
for  
Mr. L. Baskaran

For respondents Mr. R. Ravichandran - R1  
Mr. P.S. Sivashanmugasundaram  
Special Government Pleader - R2 to R5  
Mr.D.Babhu Mukunth Arunkumar for

Mr. S. Bharathi Rajan - R6

ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

This writ petition is filed seeking a mandamus forbearing the first respondent from permitting the 6th respondent to further construct the church including the petitioner's property and to direct the first respondent to initiate action against the 6th respondent in accordance with Rule 34 of the Tamil Nadu Panchayats Building Rules, 1997 and also to protect the constitutional obligations and rights and enjoyment of the petitioner's land and building in Village Natham old Survey No.274B/1A, 1A, 1A(New survey No.392/1) and bearing Door No.3/452 in Perumanallur Village Kaspā, Tiruppur Taluk , Avinashi Sub Registration district, Tiruppur District.

2. An identical issue raised by the petitioner's brother in W.P.No.14221 of 2015 (I. Chandrasekaran - Vs. - The District Collector, Tiruppur) seeking a direction to the District Collector, Tiruppur District to initiate action against the Bishop, Church of South India, Race Course Road, Coimbatore/fifth respondent therein, came up for consideration before a Division Bench of this Court and the same was dismissed on 6<sup>th</sup> May 2015 observing as under:-

" If there is any violation in constructing the building, the petitioner can seek his remedy before the appropriate forum and he cannot seek a direction, based on the disputed question of fact against the fifth respondent based on the alleged unauthorised construction. Therefore, we are of the view that the petitioner should approach only the Civil Court for seeking his remedy and by way of filing the writ petition seeking direction to the first respondent/ District Collector regarding the unauthorised construction, would not be proper."

3. Pursuant thereto, we notice that a suit in O.S.No.315 of 2015 seeking identical relief, is pending on the file of the Principal Subordinate Court, Tiruppur. Thus, we are not inclined to entertain this writ petition, at the instance of the present petitioner.

4. Accordingly, this writ petition is dismissed, reserving liberty to the present petitioner to either join the plaintiff in the pending suit or file a separate suit, if so advised. We further make it clear that the aforestated observation would not come in the way of the authorities examining the petitioner's case independently and if found that there is an unauthorised construction/encroachment, to take action on its own merits and in accordance with law. Connected miscellaneous petition is dismissed. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

- 1 The Chairman,  
Perumanallur Panchayat,  
Perumanallur  
Tiruppur District- 641 666.
  - 2 The District Collector  
Tiruppur.
  - 3 The District Revenue Officer  
Tiruppur.
  - 4 The Revenue Divisional Officer,  
Tiruppur, Tiruppur District.
  - 5 The Tahsildar Avinashi Taluk Office,  
Avinashi, Tiruppur District.
- +2 cc to M/s.S.Bharathirajan for 6th Respondent sr45213  
+1 cc to Government Pleade sr.45436  
+1 cc to M/S.C.Baskaran for Petitioner sr.45474

W.P. No.14964 of 2015

aa07/09/2015