

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.09.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

WP.No.23659/2017
& WMP.No.24833/2017

R.Rathinasamy

Versus

Petitioner

- 1.The Commissioner
Coimbatore City Municipal Corporation
Big Bazaar Street, Coimbatore-1.
- 2.The District Collector,
Collectorate Campus,
Coimbatore 641 018.
- 3.The Assistant Commissioner
Coimbatore Corporation North Region,
Dr.Balasundaram Salai
Coimbatore 641 018.
- 4.The Town Planning Officer
Coimbatore Corporation North Region,
Dr.Balasundaram Salai
Coimbatore 641 018.

- 5.The Assistant Executive Engineer
TANGEDCO, Ganesh Nagar,
Ganapathy, Coimbatore 641 006.

6.Mr.R.Maruthachalam

Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents 1 to 4 to take action against the 6th respondent for the unauthorised construction made in the land to an extent of 1.33 acres comprised in SF.No.350/1, presently TS.No.42, of Ganapathi Village, Coimbatore Taluk and District on

the basis of the petitioner's representation dated 15.04.2017 within the time to be stipulated by this Court.

For Petitioner	: Mr.R.Bharath Kumar
For RR 1, 3 & 4	: Mr.K.Natarajan
For R2	: Mr.P.Sanjay Gandhi, AGP
For R5	: Mr.S.K.Rameshuwar

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

By consent, the writ petition is taken up for final disposal. Mr.K.Natarajan, learned Standing counsel accepts notice on behalf of the respondents 1, 3 and 4 ; Mr.P.Sanjay Gandhi, learned Additional Government Pleader accepts notice on behalf of the 2nd respondent and Mr.S.K.Rameshwar, learned Standing Counsel accepts notice on behalf of the 5th respondent.

2 The petitioner claims that he and his brother, viz., R.Maruthachalam, the 6th respondent herein, are the joint owners of the land admeasuring to an extent of 1.33 acres in RS.No.350/1, TS.No.42, Ganapathy Village, Coimbatore Taluk and District and both of them possess title by virtue of the registered Release Deed bearing Document No.3708/1985 dated 21.08.1985 and the petitioner further claims that he and his brother are in joint possession and enjoyment of the property for the past 32 years and there is no partition effected between them. The grievance expressed by the petitioner is that despite the property remains undivided, his brother, viz., the 6th respondent herein, has started putting up construction in the said undivided portion of the property without obtaining any planning permission/authorisation and in this regard, the petitioner has submitted a representation dated 15.04.2017 to the respondents 1, 3 and 4 as well as to the 5th respondent on 24.04.2017 followed by a legal notice dated 08.05.2017 to the respondents 1 and 2 and despite the receipt and acknowledgment, no action has been taken so far and the 6th respondent is urgently proceeding with the construction and hence, the petitioner came forward to file the present writ petition.

3 This Court heard the submissions of Mr.R.Bharath Kumar, learned counsel for the petitioner ; Mr.K.Natarajan, learned Standing counsel appearing for the respondents 1, 3 and 4 ; Mr.P.Sanjay Gandhi, learned Additional Government Pleader appearing for the 2nd respondent and Mr.S.K.Rameshwar, learned Standing Counsel appearing for the 5th respondent and also

perused the materials placed before it.

4 Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner either in his representations and the legal notice or in the affidavit filed in support of this writ petition, directs the respondents 3 and 4 to cause inspection in the presence of the petitioner as well as the 6th respondent to find out whether the construction put up by the 6th respondent is authorised or not and thereafter, take appropriate action in accordance with law within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as to the 6th respondent herein.

5 It is made clear that this Court has not gone into the issue as to the claim of the petitioner and 6th respondent in respect of the land in question as it is for them to work out their remedy under the Common Law before the competent Civil Forum.

6 The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

AP

To

- 1.The Commissioner
Coimbatore City Municipal Corporation
Big Bazaar Street, Coimbatore-1.
- 2.The District Collector,
Collectorate Campus,
Coimbatore 641 018.
- 3.The Assistant Commissioner
Coimbatore Corporation North Region,
Dr.Balasundaram Salai
Coimbatore 641 018.

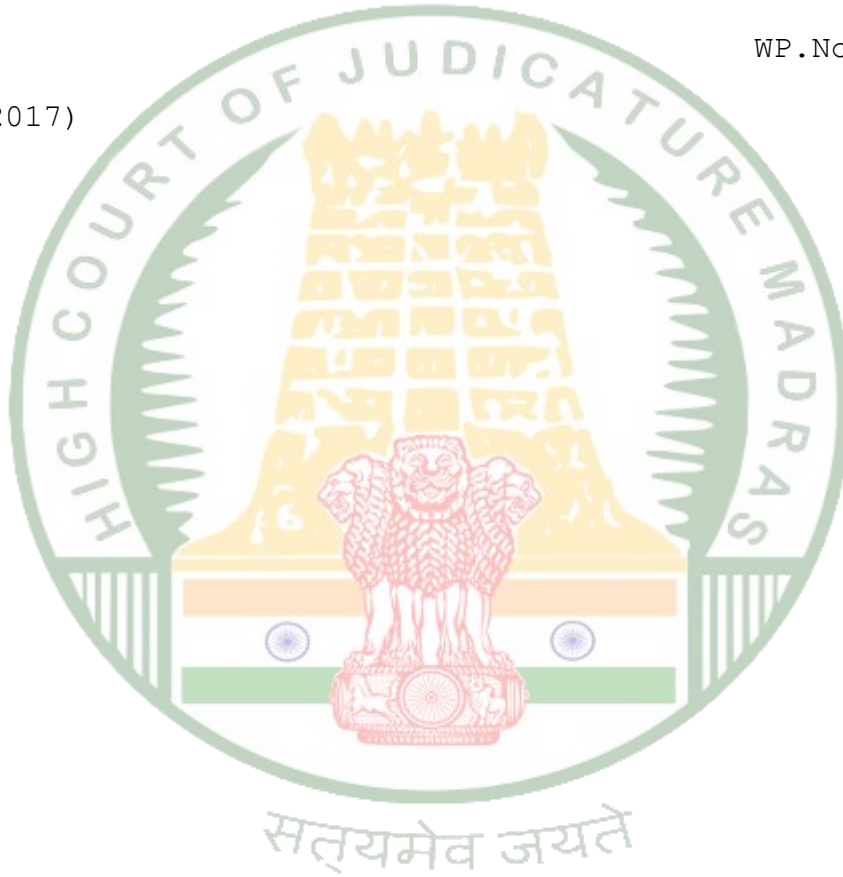
4.The Town Planning Officer
Coimbatore Corporation North Region,
Dr.Balasundaram Salai
Coimbatore 641 018.

5.The Assistant Executive Engineer
TANGEDCO, Ganesh Nagar,
Ganapathy, Coimbatore 641 006.

+lcc to Mr.K.Natarajan,, Advocate, S.R.No.63726
+lcc to Mr.R.Bharath Kumar, Advocate, S.R.No.63248
+lcc to the Government Pleader, S.R.No.63657

WP.No.23659/2017

PA(CO)
GN(06/10/2017)



WEB COPY