

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2019

CORAM

THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P.No. 2434 of 2019

and

W.M.P.No. 2688 of 2019

Rm. Visalakshi

... Petitioner

Vs

The Commissioner,
Corporation of Coimbatore,
Town Hall,
Coimbatore - 641 011

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus forbearing the respondent from in any way interfering with the petitioners right to property measuring 25 cents comprised in T.S.No.11/1278 at No.2, Alamu Nagar, Coimbatore - 12 without measuring and deciding the title to the said extent, by considering the petitioner's representation dated 11.01.2019.

For Petitioner : Mr. N.Manokaran

For Respondent : Mr. K.Magesh
Standing counsel

O R D E R

This writ petition has been filed seeking a direction to the respondent from interfering with the petitioner's right in respect of his land in T.S.No.11/1278 at No.2, Alamu Nagar, Coimbatore-12.

2. The case of the petitioner is that, he is the owner of the property to an extent of 25 cents in the above survey number, and he got a Building Plan approval before the local planning authority and constructed house therein. All of a sudden, the respondent Corporation started interfering with the petitioner's property. Earlier, the petitioner filed a writ petition before this Court in W.P.No.25357 of 2013 and a

Division Bench of this Court directed the respondent Corporation to consider the petitioner's grievance and pass suitable orders after considering his representation. Finally, order came to be passed by the respondent on 09.12.2013, thereby rejecting the petitioner's representation. Subsequently, the petitioner filed a suit in O.S.No.1161 of 2014, on the file of the Principal District Munsif Court, Coimbatore. Challenging the above order, pending suit, he has filed an application in I.A.No.1335 of 2014 seeking injunction and that application came to be dismissed after full-fledged hearing on 12.06.2018. Challenging the above order, he has filed an appeal in CMA.SR.No.26893 of 2018 with a delay of 20 days, in filing appeal, subsequently, the delay was also condoned on 31.12.2018 and the appeal was numbered as C.M.A.No.3 of 2019. The appeal is yet to be taken up for hearing. Pending appeal, the authorities are taking steps to demolish the petitioner's property. Hence, the present writ petition has been filed.

4. Admittedly, the petitioner has filed a suit against the order rejecting the petitioner's claim and an interim application filed by the petitioner was also dismissed by the trial Court. Now the appeal is also pending. If at all the petitioner has any grievance, the petitioner can very well move the appeal and get appropriate order. Without doing so, the petitioner cannot initiate a parallel proceeding before the Court and the petitioner cannot maintain the writ petition. Hence, there is no merit in the writ petition, and the writ petition is liable to be dismissed.

5. Accordingly, this writ petition is dismissed. However, now, the appeal is pending before the Principal Sub Court, Coimbatore and the Principal Sub Judge, Coimbatore, is directed to dispose the interlocutory application filed by the petitioner along with the Appeal, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mrp

To

1. The Principal Sub Judge,
Coimbatore.

2.The Commissioner,
Corporation of Coimbatore,
Town Hall, Coimbatore.

+1cc to Mr.K.Magesh, Advocate, S.R.No.7891
+1cc to N.Manokaran, Advocate, S.R.No.8295

W.P.No. 2434 of 2019

rrs 04/02/2019