



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 23.11.2021

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
AND
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.P.NO.7785 OF 2021
AND
W.M.P.NO.8317 OF 2021

T.Govindaswamy

... Petitioner

.Vs.

1. The Commissioner,
Corporation of Coimbatore,
Coimbatore - 641 001.

2. The Special Officer/Secretary,
Peelamedu Co-operative House,
Building Society Ltd.,
Coimbatore - 641 004.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st respondent to take suitable legal action against the un-authorized construction being performed near the site No.5 at Annanagar-PPS Colony for layout of Peelamedu Co-operative Housing Society Ltd, in Sowripalayam & Upplipalayam Village and restore to the original position within a specified time limit.

For petitioner : Mr.B.Eswaran
For M/s.Swaraj Associates

For respondents : Mr.K.Natarajan for R1

No appearance for R2



ORDER

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

WEB COPY

This writ petition has been filed for issuance of writ of mandamus, directing the 1st respondent to take suitable legal action against the un-authorised construction being performed near the site No.5 at Annanagar-PPS Colony for layout of Peelamedu Co-operative Housing Society Ltd, in Sowripalayam & Upplipalayam Village.

2. The petitioner claims to have purchased the Plot No.5, measuring to an extent of 10 cents through a registered sale deed dated 01.06.1994 bearing Document No.2575 of 1994. It is further stated that ever since the purchase, he is enjoying the adjacent land, being in possession like other plot owners of Plot Nos.2 to 4.

3. The learned counsel for the petitioner, Mr.B.Eswaran, would argue that the 1st respondent attempted to lay a pipeline in his property, which necessitated him to file a suit in the year 2018. When the suit is still pending, the respondents are attempting to put up illegal construction near the property of the petitioner.

4. The learned Standing Counsel, Mr.K.Natarajan, appearing for the 1st respondent, referring to the counter filed by the Commissioner, Corporation of Coimbatore, would argue that the petitioner has encroached upon the area allotted for the purpose of constructing a reading room for which plan approval was issued in the year 1963. It is also revised in the year 1968. After removing the encroachment made by the petitioner, the 1st respondent has constructed a library. In support of his submission, he has produced the approved plan of the year 1963, the revised plan of the year 1968 and also the photographs.

5. According to the learned Standing Counsel, the library was constructed by utilising the fund of MLA Constituency Development Fund and there is no reason to implead the Ex-MLA in this writ petition.

6. We find force in the submission of the learned Standing Counsel. From the perusal of the plaint in O.S.No.615 of 2018, it is seen that the suit has been instituted against the Commissioner, Corporation of Coimbatore, seeking permanent injunction, without giving schedule of property. That apart, the affidavit filed in support of this writ petition is bereft of necessary particulars. Therefore, we do not find merit in the case of the petitioner and hence, this writ petition deserves to



be dismissed. Accordingly, it stands dismissed. No costs.
Consequently connected miscellaneous petition is closed.

WEB COPY

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Jer

To

1. The Commissioner,
Corporation of Coimbatore,
Coimbatore - 641 001.
2. The Special Officer/Secretary,
Peelamedu Co-operative House,
Building Society Ltd.,
Coimbatore - 641 004.

+1cc to M/s.Swaraj Associates, Advocate, S.R.No.60335
+1cc to M/s.P.Wilson Associates, Advocate, S.R.No.60356
+1cc to Mr.K.Natarajan, Advocate, S.R.No.60626

W.P.NO.7785 OF 2021 AND
W.M.P.NO.8317 OF 2021

KSM(CO)
PBS/08/12/2021