



W.P. No.14727 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 07.11.2022**

CORAM :

**THE HONOURABLE MR. JUSTICE S.S. SUNDAR  
AND**

**THE HONOURABLE MRS. JUSTICE N. MALA**

**W.P.No.14727 of 2010  
and M.P.No.1 of 2010**

K.Vijay

... Petitioner

Vs.

1.The District Collector,  
The Nilgiris District,  
Udagamandalam.

2.The Assistant Director of Town Panchayat,  
Collectorate Complex,  
Udagamandalam.

3.The Executive Officer,  
Ketti Town Panchayat,  
Ketti,  
Coonoor Taluk.

4.S.Parthasarathy

5.V.Anandhi

... Respondents

*[R5 impleaded vide Court order dated 22.11.2018 made  
in W.M.P.No.27572 of 2018 in W.P.No.14727 of 2010]*



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**Prayer** : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 1 to 3 herein to take legal action against the illegal construction being put up by the 4th respondent herein in Old S.No.1392/14, New S.No.1217/6, Ketti Village, Coonoor Taluk, The Nilgiris District, within the time from as may fixed by this Court.

|                |   |                                                         |
|----------------|---|---------------------------------------------------------|
| For Petitioner | : | Mr.Elephant G.Rajendran                                 |
| For R1 and R2  | : | Mrs.Geetha Thamaraiselvan<br>Special Government Pleader |
| For R3         | : | Mr.T.Seenivasan                                         |
| For R4         | : | Mr.V.R.Rajasekaran                                      |
| For R5         | : | Mr.M.Ramesh                                             |

### **ORDER**

(Order of the Court was made by **S.S. SUNDAR, J.**)

This writ petition is filed for issuance of a writ of mandamus directing the respondents 1 to 3 herein to take legal action against the illegal construction put up by the 4<sup>th</sup> respondent in Old.S.No.1392/14, New S.No.1217/6, Ketti Village, Coonoor Taluk, The Nilgiris District.



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2.The case of the petitioner as seen from the affidavit is that the 4<sup>th</sup> respondent, being the owner of the property which is the subject matter of this writ petition, has put up construction, even though the land comes under the category of “agricultural lands” as per the master plan of The Nilgiris District. It is admitted that the 4<sup>th</sup> respondent purchased the land measuring an extent of 27.18 cents in Ketti Village, and the petitioner is the owner of the adjacent land. It is further stated that the 4<sup>th</sup> respondent has put up fencing, which is causing disturbance to the wild life moving in that area, in particular, wife buffaloes and black panthers, which are getting distracted. From the further averments made in the affidavit, the petitioner states that the 4<sup>th</sup> respondent's vendor has put up unauthorized construction of 900 sq.ft. even though the plan approval was for 700 sq.ft. It is then stated that the 4<sup>th</sup> respondent is expanding his construction contrary to the Building Rules. Stating that Ketti Village is an environmentally sensitive area, the petitioner made a representation to the respondents 1 to 3 on 30.06.2010, seeking action against the illegal construction put up by the 4<sup>th</sup> respondent. The above writ petition is filed on the allegation that the



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respondents 1 to 3 have failed to take action on the representation of the petitioner.

3.A counter affidavit is filed by the 4<sup>th</sup> respondent stating that the petitioner has no *locus standi* to file the above writ petition and the petitioner, who is a relative of the vendor of the 4<sup>th</sup> respondent, has filed this writ petition due to some enmity. It is further stated that the vendor of the 4<sup>th</sup> respondent could not complete the construction of the building at the intervention of the petitioner and thereafter, the 4<sup>th</sup> respondent's vendor had sold the property to the 4<sup>th</sup> respondent and the 4<sup>th</sup> respondent has just completed the construction left over by his vendor. It is the specific stand taken by the 4<sup>th</sup> respondent that the construction was in accordance with the plan obtained by the 4<sup>th</sup> respondent's vendor and the 4<sup>th</sup> respondent had also applied for revised plan to the 3<sup>rd</sup> respondent and that the present construction put by the 4<sup>th</sup> respondent is in accordance with the approved revised plan for the building with 900 sq.ft.



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4. Heard the learned counsel on either side and perused the materials available on record.

5. The District Collector, The Nilgiris District, has addressed a letter to the Government Pleader earlier indicating that there was no master plan in respect of the subject property nor any restriction for development, since the construction of the building is below 1500 sq.ft. It is stated that the 4<sup>th</sup> respondent has obtained approval for revised plan by submitting an application on 12.05.2010. Though this Court wanted the respondents 1 to 3 to file a status report, but the status report as required by this Court has not been filed, having regard to the statements made by the 4<sup>th</sup> respondent in the counter affidavit and the communication from the District Collector, this Court is of the view that the petitioner has approached this Court without verifying records. Merely by stating that the land has been classified as agricultural land and there was no reclassification, the construction put up by the 4<sup>th</sup> respondent, which was pursuant to a valid permission, cannot be found fault with. The petitioner has not referred to specific statutory provisions while describing the small building as unauthorized.



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6.This Court finds no merit in this writ petition. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

**(S.S.S.R., J.) (N.M., J.)**  
**07.11.2022**

mkn

Internet : Yes

Index : Yes / No

Speaking order / Nonspeaking order

To

- 1.The District Collector,  
The Nilgiris District,  
Udagamandalam.
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Collectorate Complex,  
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**S.S. SUNDAR, J.**  
**and**  
**N. MALA, J.**

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