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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
and

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.No.3725 of 2022

R.C.Gokulakrishnan

...Petitioner

vs

1. The District Collector,
Collectorate,
Krishnagiri,
Krishnagiri District,
PIN: 635 001.
2. The Block Development Officer,
(Village Panchayats),
Kelamangalam Panchayat Union,
Kelamangalam,
Denkanikottai Taluk,
Krishnagiri District.
3. The Public Information Officer,
Block Development Office,
Kelamangalam,
Denkanikottai Taluk,
Krishnagiri District.
4. The Panchayat President,
Rayakottai Panchayat,
Rayakottai,
Kelamangalam Union,
Denkanikottai Taluk,
Krishnagiri District,
PIN 635 116.

5.J.Devarajan

...Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of Mandamus directing the fourth respondent to take action and to dispose of the petitioner's representation dated 27.01.2021.

For Petitioner : Mr.J.Harikrishna

For Respondents : Mr.K.V.Sajeev Kumar,
Special Government Pleader
for R1

Mrs.Geetha Thamaraiselvan
for R2 to R4

ORDER

[Order of this Court was delivered by T.RAJA, J.]

The petitioner has come to this Court for issuance of writ of Mandamus directing the fourth respondent to take action and dispose of the petitioner's representation dated 27.01.2021.

2.Learned counsel appearing for the petitioner submitted that on earlier occasion, the petition mentioned property was leased out to the Indian Bank, Rayakottai Branch from 19.12.1975 under Deed of Lease dated 30.06.1977, registered as Document No.874 of 1977 in the office of the Sub Registrar, Rayakottai, Krishnagiri District. After 25 years, the Indian Bank had vacated the building for the reason that the building was in a dilapidated condition. Learned counsel for the petitioner further submitted that one Dhanabakkiyam, who is the relative of the fifth respondent, having no legal heir, gave a portion of the building to the fifth respondent. After the Indian Bank vacated the building, the fifth respondent took the possession of a portion of the building and started home appliances under the name and style of 'Om Shree Saravana Electronics' at Door No.1/798, Krishnagiri Road, Rayakottai Village, Denkanikottai Taluk, Krishnagiri District, which was constructed before the year 1975 and the said building was constructed without columns, but, raising foundation with only 4 to 5 feet depth and that there is no sanctioned plan available for the building with the local authority namely, the fourth respondent. After executing a written lease agreement on 15.05.2016 between the petitioner and the fifth respondent, the petitioner had let out his shop to the fifth respondent. While so, the fifth respondent being a tenant under the petitioner, had encroached his vacant land available in front of his shop by erecting a steel staircase leading to



the terrace of his building. Therefore, the petitioner sent a legal notice dated 07.12.2020 to the fifth respondent warning him to stop encroaching the vacant land belonging to his joint family. As there was no response, the petitioner sent a representation to the fourth respondent requesting him to lock and seal the dilapidated building and demolish the same, in which, the fifth respondent was carrying out un-authorised construction in the first floor. Since no action was taken, the petitioner filed an Original Suit in O.S. No.382 of 2021 before the Subordinate Judge, Denkanikotta, Krishnagiri District to evict the fifth respondent from his shop and remove the encroachment from vacant land in front of his shop and in the said suit, the fifth respondent has filed written statement. Learned counsel for the petitioner further submitted that the allegation made by the petitioner in the suit filed against the fifth respondent is that the fifth respondent has not been paying monthly rent regularly and he has erected a steel staircase leading to the terrace of his building, without obtaining any permission from the competent authority. Therefore, the petitioner is before this Court seeking the above prayer.

3.Learned Special Government Pleader appearing for the first respondent submitted that although the petitioner has given an application under RTI Act to find out as to whether any action has been taken against the fifth respondent for putting up some illegal construction, it cannot be treated as a complaint and therefore, he has to give a separate complaint before the second respondent/Block Development Officer, who is the competent authority to decide this issue. If the petitioner approaches the Block Development Officer by giving a detailed representation, action would be taken, on merits, as per law.

4.Heard both sides.

5.Since the Block Development Officer, the second respondent is the competent authority to decide the issue, we are inclined to issue suitable direction to the respondents concerned. Accordingly, the petitioner is given liberty to approach the Block Development Officer within a period of two weeks from the date of receipt of a copy of this order along with his representation enclosing this copy. On receipt of the same, the Block Development Officer shall consider his request and pass appropriate orders, on merits and in accordance with law, within a period of four weeks thereafter, after giving notice to the petitioner, the fifth respondent and other necessary parties.



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6. With the above direction, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vga
To

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- +2 Ccs to Mr.J.Harikrishna, Advocate sr 12125.

W.P.No.3725 of 2022

GJ(CO)
SP(15/03/2022)