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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2022

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THE HONOURABLE MR.JUSTICE T.RAJA

and

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.No.4973 of 2022

R.Sivalingam

... Petitioner

vs

1. The Special Officer,
Perumanallur Panchayat,
Perumanallur,
Tiruppur - 641 666.
2. The Panchayat President,
Perumanallur Panchayat Office,
Perumanallur,
Tiruppur - 641 666.
3. The Tahsildhar,
Avinashi Tahsildhar Office,
Avinashi, Tiruppur - 641 654.
4. The Revenue Divisional Officer,
Revenue Divisional Office,
Tiruppur.
5. The District Collector,
District Collector Office,
Tiruppur - 641 604.
6. Sumathi
7. Vigneshwara Vidyalaya Matriculation
Higher Secondary School,
rep. by its Correspondent R.Murugasami,
Balasamuthiram, Perumanallur,
Tiruppur - 641 666.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of Mandamus directing the respondents 1 to 5 to take necessary steps to demolish the illegal construction



of the building constructed by the sixth respondent Survey No.232/4, Perumanallur Village, Tiruppur District and enable free access for the students of the 7th respondent into playground.

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For Petitioner : Mr.E.Hariharan
for Mr.PL.Narayanan

For Respondents : Mrs.Senthil Selvi,
Government Advocate
for R1 and R2

Mr.K.V.Sajeev Kumar,
Special Government Pleader
for R3 to R5

ORDER

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

The petitioner has come to this Court for issuance of a writ of Mandamus seeking a direction to respondents 1 to 5 to take necessary steps to demolish the illegal construction of the building constructed by the sixth respondent in Survey No.232/4, situated at Perumanallur Village, Tiruppur District and enable free access for the students of the 7th respondent into playground.

2.Learned counsel appearing for the petitioner submitted that after the petitioner was admitted in Vigneshwara Vidyalaya Matriculation Higher Secondary School, Balasamuthiram, Perumanallur, Tiruppur, the seventh respondent herein as a student of L.K.G. on 03.06.1996, he studied till 10th std. Thereafter, he, being the Alumni of the school, used to visit the school to meet his Teachers and Correspondent. While so, when he visited his school, he came to know that the property situated between the school building and the playground is owned by one Sumathi, the sixth respondent herein. However, the petitioner came to know that the sixth respondent, without leaving any set back and getting permission from the competent authority, has been constructing an apartment in her property, which resulted in the access to the school playground was only 4 feet pathway. Learned counsel appearing for the petitioner further submitted that the Special Officer, Perumanallur Panchayat, Tiruppur, the first respondent herein, after knowing all the above mentioned facts, sent notices dated 18.06.2019 and 02.08.2019 to the sixth respondent to stall the construction of the building in Survey No.232/4, being built without obtaining prior permission from the first respondent. Subsequently, the



first respondent also passed an order dated 13.12.2019 asking the sixth respondent as to why the illegal construction made by her should not be demolished. But, thereafter the first respondent has not taken any further step pertaining to his earlier order dated 13.12.2019. Unless a direction is issued to respondents 1 to 5 to demolish the illegal construction covered in Survey No.232/4, situated at Perumanallur Village, Tiruppur District, the students of the 7th respondent would be put to grave prejudice. Therefore, the petitioner has been advised to come this Court with the above prayer.

3.Learned Special Government Pleader appearing for respondents 3 to 5 submitted that the petitioner has no locus standi to come to this Court. Firstly, when the School/7th respondent herein is said to have filed a Civil Suit against the sixth respondent, the petitioner claims to be an Alumni of the said School, ought not to have filed this petition because if for any reason, after contest, this Court made any observation making a serious impact on the pending suit, this petition filed by the petitioner or the suit said to have been filed by the seventh respondent may become infructuous. Secondly, although in paragraph 7 of the affidavit, the petitioner has mentioned that the first respondent has already sent notices dated 18.06.2019 and 02.08.2019 asking the sixth respondent to stall the construction of the building in S.No.232/4, copy of these notices dated 18.06.2019 and 02.08.2019 have not been filed. Thirdly, the petitioner has also mentioned that the first respondent passed an order dated 13.12.2019 informing the sixth respondent to come and explain as to why action should not be initiated for demolition, but the same has also not been enclosed to find out as to whether the first respondent has initiated any action for demolition.

4.Heard both sides.

5.We also find merits on the submission made by the learned Special Government Pleader appearing for respondents 3 to 5. When the petitioner came to this Court, the first respondent has already initiated action by issuing two notices dated 18.06.2019 and 02.08.2019, which according to him, calling upon the sixth respondent to stall the construction of the building, covered in Survey No.232/4. Secondly, the first respondent has also taken further steps by issuing an order dated 13.12.2019 calling upon the sixth respondent to give explanation and in failure, action will be initiated to demolish the un-authorised construction, if any. Therefore, when the first respondent has already initiated action and the seventh respondent, for whom the petitioner came to this Court to issue a writ of mandamus by filing this petition, said to have filed a Civil Suit against the sixth respondent, the petitioner ought not to have filed this



petition. Therefore, we do not interfere into the private claim made between the seventh respondent and the sixth respondent. Accordingly, this writ petition is liable to be dismissed and the same is dismissed. No costs.

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Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

vga

To

1. The Special Officer,
Perumanallur Panchayat,
Perumanallur,
Tiruppur - 641 666.
2. The Panchayat President,
Perumanallur Panchayat Office,
Perumanallur,
Tiruppur - 641 666.
3. The Tahsildhar,
Avinashi Tahsildhar Office,
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5. The District Collector,
District Collector Office,
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