

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.NO.5549 OF 2022 AND W.M.P. NO.5651 OF 2022

1.B.R.Dhayananthan

2.B.R.Mohankumar

...Petitioners

Vs

1.The Commissioner,
Corporation of Hosur,
Hosur,
Krishnagiri District - 635 109.

2.M.Seenappa

...Respondents

Prayer : Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the first respondent to take action against the second respondent to remove the un-authorised construction made in the petitioner's property situated at Plot No.42, measuring 2698 sq.ft. totally in Survey No.769 at Ameeria Colony Layout, Seetharam Medu, Chennathur Village, Hosur, Krishnagiri District, as per the petitioner's representation dated 24.01.2022.

For Petitioners : Mr.M.Thamizhavel

For Respondents : Mr.A.Selvendran,
Special Government Pleader
for R1

ORDER

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

The petitioners have come to this Court for issuance of a writ of mandamus under Article 226 of the Constitution of India seeking a direction to the first respondent to take action against the second respondent to remove the un-authorised construction made in their property, situated at Plot No.42, measuring 2698 sq.ft., totally in Survey No.769 at Ameeria Colony Layout, Seetharam Medu, Chennathur Village, Hosur,

Krishnagiri District, based on their representation dated 24.01.2022.

2.Learned counsel appearing for the petitioners submitted that the petitioners purchased two vacant house sites in Plot No.42, S.No.769, situated at Seetharam Medu, Ameeria Colony Layout, Chennathur Village, South Hosur, Krishnagiri District from one Meer Khaleel Ahamed in the year 2014 through registered sale deeds bearing Doc.Nos.4656/2014 and 4657/2014. After purchasing the above said house sites, the petitioners have obtained separate patta for two house sites and there is a road running in front and back side of their house sites and there is a Highway Ring Road on the back side of their house sites. While so, when the petitioners proposed to construct a residential house in the above said house sites, they came to know that an encroachment has been made by the second respondent, who constructed shops by raising the compound wall in their house sites, without any proper planning permit from the first respondent. Learned counsel for the petitioners further submitted that the second respondent has not only encroached their house sites, but also constructed shops in front of their house sites by blocking free access to their house sites. Since the petitioners requested the second respondent to remove the encroachment made in their house sites and also to remove the shop in front of them, which are preventing the free ingress and egress to their house sites, the second respondent refused to remove the said encroachments. Therefore, the petitioners made a representation dated 24.01.2022 to the first respondent in this regard. As there was no response, they are before this Court with the above prayer.

3.At this stage, learned Special Government Pleader appearing for the first respondent, placing on record a written instruction received from the first respondent, submitted that the second respondent has not put up any new construction, since the same was made by the second respondent before the ring road was laid.

4.A perusal of the above written instruction submitted by the learned Special Government Pleader shows that when planning permission was granted to the petitioners, there was no proposal for laying the ring road, which belongs to the Highways Authority. The expansion of the ring road was initiated from 2020 and now the same is at the stage of completion. Since the second respondent has completed the construction before the ring road was laid and at the time of laying the ring road, a portion of the building was also demolished, the allegation made by the petitioners against the second respondent is not acceptable. Therefore, we are not inclined to entertain this writ petition filed by the petitioners, since there is no merit in the same.

If the petitioners have got any grievance, they are at liberty to work out their remedy before the competent authority.

5. With the above observation, this writ petition stands dismissed. No costs. Consequently, W.M.P. No.5651 of 2022 stands closed.

Sd/-
Assistant Registrar(CCC)

// True Copy //

Sub Assistant Registrar

vga

To

The Commissioner,
Corporation of Hosur,
Hosur,
Krishnagiri District - 635 109.

+1cc to Mr.M.Thamizhavel, Advocate, Sr.No.16946

+1cc to the Government Pleader, Sr.No.17446, 17795

W.P.No.5549 of 2022 and W.M.P. No.5651 of 2022

SPD(CO)
RVM(31/03/2022)