

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MRS.JUSTICE N.MALA

W.P.No.17101 of 2022

R.Mahalisamy

.. Petitioner

Vs.

1. State of Tamil Nadu
rep. by the District Collector
Tiruppur District.
2. The Commissioner
Thirumuruganpoondi Municipality
Avinashi Taluk
Tiruppur District.
3. The Tahsildar
Avinashi
Tiruppur District.
4. Maarisamy

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of Mandamus directing the respondents 1 to 3 to consider the petitioner's representation dated 01.04.2022.

For the Petitioner : Ms.Dharani Subramanian

For the Respondents : Mr.J.Ravindran
Additional Advocate
General
Assisted by
Mr.A.Selvendran
Special Government Pleader
for Respondents 1 & 3

Mrs.P.Shanthi
Standing Counsel
for Respondent -2

ORDER
(Order of the Court was made by
the Hon'ble Chief Justice)

The writ petition has been filed alleging encroachment of the common pathway by the fourth respondent, by constructing a room.

2. As per the representation made by the petitioner and as stated by learned Additional Advocate General, the encroachment by way of construction of a room was made almost two years back.

3. The fourth respondent, who is the brother of the petitioner, constructed a room in the space which was used as common pathway, two years back. The petitioner, without approaching the civil Court immediately for obtaining an order of injunction to restrain his brother from raising construction, had waited for almost two years and thereafter, had chosen to make a representation to remove the construction. Now, the petitioner has come up with the writ petition for a direction on the official respondents to consider the said representation.

4. In view of the aforesaid, this writ petition cannot be said to be bona fide. Further, the writ petition involves determination of facts. Thus, we are not inclined to entertain this writ petition. Accordingly, it is dismissed. However, the petitioner is given liberty to avail the remedy before the civil Court if he so chooses. There will be no order as to costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

kpl

To:

1. The District Collector
Tiruppur District.
2. The Commissioner
Thirumuruganpoondi Municipality
Avinashi Taluk
Tiruppur District.
3. The Tahsildar
Avinashi
Tiruppur District.

+1 cc to Ms.Dharani Subramanian, Advocate Sr.NO. 44107

+1 cc to Government Pleader Sr.NO. 44650,44981

W.P.No.17101 of 2022

(CO)

A.SK(18/07/2022)