



W.P.No.19345 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.No.19345 of 2021

K.Chandrasegar

.. Petitioner

-VS-

- 1.The District Collector,
Krishnagiri,
Krishnagiri District,
Tamil Nadu.
- 2.The Municipal Commissioner,
Hosur Municipality,
Hosur,
Krishnagiri District,
Tamil Nadu.
- 3.The Revenue District Officer,
Hosur,
Krishnagiri District,
Tamil Nadu.
- 4.The Tahshildar,
Hosur,
Krishnagiri District,
Tamil Nadu.
- 5.Shamthaj

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India,
praying for issuance of a Writ of Mandamus directing respondents 1 to



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4 to remove the unauthorised illegal construction of religious structure (mosque) put up by the fifth respondent at Plot Nos.34 and 35 at Survey No.751/4, 5 at Jujuvadi Village, Hosur Municipality, Hosur Taluk, Krishnagiri District, considering the petitioner's representation dated 19.04.2021, 20.04.2021 and 21.04.2021.

For Petitioner : Mr.P.R.Thiruneelakandan

For respondents : Mr.V.Manoharan,
Additional Government Pleader
for R1, 3 and 4

Mr.N.A.Nissar Ahmed for R5

Mr.N.Subbarayalu for R2

ORDER

(Order of the Court was made by T.RAJA, J.)

The petitioner has come to this Court with this writ petition seeking a direction to respondents 1 to 4 to remove the un-authorised illegal construction of religious structure (mosque) put up by the fifth respondent at Plot Nos.34 and 35 in Survey Nos.751/4 and 5, situated at Jujuvadi Village, Hosur Municipality, Hosur Taluk, Krishnagiri District, considering his representations dated 19.04.2021, 20.04.2021 and 21.04.2021.

2.Learned counsel appearing for the petitioner submitted that the fifth respondent, having purchased plot numbers 34 and 35 at



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Survey Nos.751/4 and 751/5, illegally constructed a religious structure (Mosque), without getting any permission from the authority concerned. Objecting the same, the petitioner and other plot owners made representations dated 19.04.2021, 20.04.2021 and 21.04.2021 to respondents 1 to 4 to remove the un-authorised religious structure made in the said residential area. Since respondents 1 to 4 did not come forward to remove the un-authorised illegal construction of religious structure, the petitioner is before this Court.

3.Learned counsel for the Hosur Municipality/the second respondent herein submitted that on receipt of the representations from the petitioner and other plot owners, a notice dated 22.11.2021 has been issued to the fifth respondent with regard to the illegal construction giving him 15 days time to give reply, failing which, action will be taken against him. In spite of the same, the fifth respondent raised construction and completed now. Therefore, the second respondent has been waiting for reply from the fifth respondent and if there is no response from him, further action will be taken for removal of the construction made by the fifth respondent.



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4.Learned Additional Government Pleader appearing for respondents 1, 3 and 4 brought to our notice the counter affidavit filed by the fourth respondent, wherein it could be seen that the fifth respondent has constructed the asbestos sheet room in S.No.751/4 of Zuzuvadi Village and the said room or shed has been locked. In the counter affidavit, the Tahsildar, Hosur has stated that there is no mosque or religious structure in the residential area of the petitioner.

5.Learned counsel for the fifth respondent submitted that the fifth respondent, who is a Villager, has been living in a remote area and he is unaware of the procedures being followed for making construction. Learned counsel for the fifth respondent undertakes that to safeguard the construction, the fifth respondent should obtain permission under Section 56(3) of the Tamil Nadu Town and Country Planning Act, 1971, which is very clear that any person aggrieved by such notice may, within the period specified in the notice and in the manner prescribed, apply for permission under Section 49 for the retention of the land or any building or work or for the continuance of any use of the land or building to which the notice relates. Therefore, even after receipt of the lock and seal notice, an application can be moved seeking planning permission. Learned counsel for the fifth



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respondent further submits that since few muslims are living in the village, the counter filed by the Tahsildar, Hosur stating that there are no muslims in the village is untenable and unjustifiable.

6.Heard both sides.

7.A perusal of the counter affidavit filed by the Tahsildar, Hosur shows that the Zuzuvadi Village is not muslim dominated village and there are no muslims in the village. When the fifth respondent himself admits before this Court that there are few muslims in the said village, the Tahsildar, Hosur ought not to have taken such a contra stand misleading the counter affidavit.

8.Considering the repeated request made by the learned counsel appearing for the fifth respondent that he would advice the fifth respondent to move an application under Section 56(3) of the Tamil Nadu Town and Country Planning Act, 1971, we hereby direct the second respondent to consider the application to be filed by the fifth respondent and pass appropriate orders, on merits and in accordance with law within a period of one week from the date of receipt of a copy



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T.RAJA, J.
and
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of this order, if any such application is filed. Till then, the fifth
respondent is permitted to use the premises in question, provided an
application is to be filed within one week as mentioned above. With the
above direction and observation, this writ petition stands disposed of.
No costs.

(T.R.,J.) (K.B.,J.)
13.06.2022

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To

- 1.The District Collector,
Krishnagiri,
Krishnagiri District,
Tamil Nadu.
- 2.The Municipal Commissioner,
Hosur Municipality,
Hosur, Krishnagiri District,
Tamil Nadu.
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