



W.P.(MD)No.17948 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.08.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**  
and  
THE HONOURABLE **MRS.JUSTICE S.SRIMATHY**

W.P(MD)No.17948 of 2022  
and W.M.P.(MD) Nos.13102 and 13103 of 2022

Periyasamy

... Petitioner

Vs.

- 1.State of Tamil Nadu,  
Rep. by its Secretary,  
Department of Town and Country Planning,  
St. George Fort,  
Chennai.
- 2.The Director,  
Department of Town and Country Planning,  
Anna Salai,  
Chennai.
- 3.The Tiruchirappalli Local Planning Authority,  
Rep. by its Member Secretary (District Collector),  
Collectorate, Tiruchirappalli District.
- 4.The Commissioner,  
Tiruchirappalli City Corporation,  
Tiruchirappalli.
- 5.The Assistant Commissioner,  
Ariyamangalam Zone,  
Tiruchirappalli City Corporation,  
Tiruchirappalli.



W.P.(MD)No.17948 of 2022

6.Dwarka Prasad

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the Respondents 3 to 5 herein to consider the petitioner's representation dated 13.07.2022 and take appropriate steps as against the unauthorized and illegal construction of compound wall put up by 6<sup>th</sup> Respondent in Town Survey No.5, New Ward N, New Block No.27, New T.S.No.130/2, 130/5, Door No.42 in Ommantha Pillai Lane, Jabarsha Street, Diamond Nagar, Tiruchirappalli District as per provisions of Tamil Nadu Town and Country Planning Act, 1971 and Tamil Nadu Panchayat Building Rules, 1997 within a time stipulated by this Hon'ble Court and remove the unauthorized construction of compound wall in accordance with law.

For Petitioner : Dr.R.Ramachandran

For Respondents 1 to 3 : Mr.N.Satheesh Kumar  
Additional Government Pleader

For Respondents 4 & 5 : Mr.R.Baskaran  
Additional Advocate General

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### **ORDER**

(Order of the Court was made by **S.S.SUNDAR, J.**)

This Writ Petition has been filed for issuance of a Writ of Mandamus, directing the Respondents 3 to 5 herein to consider the petitioner's representation dated 13.07.2022 and take appropriate



W.P.(MD)No.17948 of 2022

steps as against the unauthorized and illegal construction of compound wall put up by 6<sup>th</sup> Respondent in Town Survey No.5, New Ward N, New Block No.27, New T.S.No.130/2, 130/5, Door No.42 in Ommantha Pillai Lane, Jabarsha Street, Diamond Nagar, Tiruchirappalli District as per provisions of Tamil Nadu Town and Country Planning Act, 1971 and Tamil Nadu Panchayat Building Rules, 1997 within a time stipulated by this Hon'ble Court and remove the unauthorized construction of compound wall in accordance with law.

2. Heard Dr.R.Ramachandran, learned counsel for the petitioner, Mr.N.Satheesh Kumar, learned Additional Government Pleader, appearing for the respondents 1 to 3 and Mr.R.Baskaran, learned Additional Advocate General, appearing for the respondents 4 and 5.

3. It is the case of the petitioner that the petitioner has put up construction with approved building plan with permissible features and the construction is almost over. It is his grievance that the 6<sup>th</sup> respondent is now putting up a compound wall exceeding the prescribed height.



W.P.(MD)No.17948 of 2022

4. It is admitted by the petitioner that the 6<sup>th</sup> respondent has filed a suit in O.S.No.68 of 2022 before the III Additional District Munsif Court, Tiruchirappalli as against the petitioner and respondents 4 and 5 for permanent injunction and mandatory injunction to remove the construction put up by the petitioner on the western side of his property. The dispute between the petitioner and the 6<sup>th</sup> respondent appears to be purely civil in nature. Since a civil suit has already been filed by the 6<sup>th</sup> respondent, it is open to the petitioner to approach the civil Court and establish his right as against the 6<sup>th</sup> respondent. In case the petitioner establishes any legal injury or infringement of his rights by the offending construction, the petitioner is entitled to appropriate relief before the civil Court even if the 6<sup>th</sup> respondent has got approved plan for the offending construction.

5. Regarding the dispute between them, the parties have already approached the civil Court. Hence, this Court is not inclined to entertain this Writ Petition. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are also dismissed.



W.P.(MD)No.17948 of 2022

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6. Learned counsel for the petitioner seeks indulgence of this Court to direct the lower Court to dispose of the application filed by the petitioner in the suit filed by the 6<sup>th</sup> respondent. This Court entertains a serious doubt as to the maintainability of such an application filed in the suit filed by the 6<sup>th</sup> respondent. The petitioner is entitled to approach the civil Court by a separate suit, if he has got a cause of action. In a suit filed by the 6<sup>th</sup> respondent against the petitioner, the petitioner cannot claim any relief. Therefore, the petitioner is advised to file an independent suit or a counter claim, if it is permissible. It is also open to the petitioner to file a fresh suit on the same cause of action. Preserving such liberty, this petition is dismissed.

**[S.S.S.R., J.]      [S.S.Y., J.]**  
**10.08.2022**

Index : Yes / No

sj

To

1. The Secretary,  
Department of Town and Country Planning,  
State of Tamil Nadu,  
St. George Fort,  
Chennai.



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W.P.(MD)No.17948 of 2022

**S.S.SUNDAR, J.**

and

**S.SRIMATHY, J.**

sj

- 2.The Director,  
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**W.P(MD)No.17948 of 2022**

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